HOUSE OF REPRESENTATIVES—*Monday, January 25, 1993*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 22, 1993.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore on Monday, January 25, 1993.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious Lord, from whom comes every good gift, we offer our thanks for this new day and all its possibilities. May we use our time and energies to heal and not hurt, to seek unity and not division, to respect and not disparage, and to discover anew the bonds of solidarity and harmony that give us purpose and strength. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina [Mr. COBLE] to lead us in the Pledge of Allegiance.

Mr. COBLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

JANUARY 22, 1993.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: It has been a pleasure and honor for me to serve in the U.S. House of Representatives. As you know, I have resigned today to serve in the President's Cabinet as Secretary of Agriculture. I hope to continue to work with you in my new position and I thank you for your leadership through the years.

Please find enclosed my resignation letter to Mississippi Governor Kirk Fordice. As I have written to Governor Fordice, I have accepted my new position with enthusiasm but also with a sense of tremendous gratitude and humility for the trust and confidence that the voters of my district have placed in me over the years. In the many votes I have cast and the many actions I have taken on their behalf, I have always tried to reflect credit on the 2nd Congressional District and on the great state of Mississippi.

It has been the ultimate honor for me to be a part of our country's history by serving in the U.S. House of Representatives. I look forward to continuing to serve my country in my new position and working with you and my former colleagues in Congress.

Sincerely,

MIKE ESPY,
Secretary of Agriculture.

HOUSE OF REPRESENTATIVES,
Washington, DC, January 21, 1993.

Hon. KIRK FORDICE,
Governor of Mississippi, State Capitol, Jackson, MS.

DEAR GOVERNOR FORDICE: For the past six years, I have had the privilege of representing the people of the 2nd Congressional District in the Congress of the United States. In the many votes I have cast and the many actions I have taken on their behalf, I have always tried to reflect credit on the 2nd Congressional District and on our great state of Mississippi.

As you are aware, I recently have been nominated by the President of the United States and confirmed by the United States Senate to serve in the President's Cabinet as Secretary of Agriculture, As such, I am requesting and do hereby submit my resignation as United States Congressman effective upon my taking the oath of office on Friday, January 22, 1993, at approximately 10 a.m. EST.

Although I have accepted the new position with enthusiasm, I leave my House seat with a sense of tremendous gratitude and humility for the trust and confidence that the voters of my district have placed in me over the years.

I assure you and the citizens of Mississippi that I will continue to be an advocate and strong ally for all legitimate needs of the people of Mississippi.

Sincerely,

MIKE ESPY,
Member of Congress,
Secretary of Agriculture-Designate.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 21, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Attached is the letter I have sent to the Governor of California notifying him of my resignation from the U.S. House of Representatives effective 6 p.m. today.

Sincerely,

LEON E. PANETTA,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, January 21, 1993.

Gov. PETE WILSON,
State Capitol, Sacramento, CA.

DEAR GOVERNOR: Having been nominated by the President, and confirmed by the Senate, as the Director of the Office of Management and Budget, I resign as U.S. Representative of the 17th Congressional District of California effective 6:00 p.m. today.

Sincerely,

LEON E. PANETTA,
Member of Congress.

REPORT ON RESOLUTION PROVIDING FOR ESTABLISHMENT OF SELECT COMMITTEE ON AGING

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–1) on the resolution (H. Res. 19) to establish the Select Committee on Aging, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR ESTABLISHMENT OF SELECT COMMITTEE ON AGING

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–2) on the resolution (H. Res. 30) to establish the Select Committee on Aging, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR ESTABLISHMENT OF SELECT COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–3) on the resolution (H. Res. 23) to establish the Select Committee on Children, Youth and Families, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR ESTABLISHMENT OF SELECT COMMITTEE ON HUNGER

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–4) on the resolution (H. Res. 19) to establish the Select Committee on Hunger, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR ESTABLISHMENT OF THE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–5) on the resolution (H. Res. 20) to establish the Select Committee on Narcotics Abuse and Control, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
January 22, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Thursday, January 21, 1993 at 6:40 p.m. and said to contain a message from the President whereby he notifies the Congress of his decision of the maximum deficit amount under the Balanced Budget and Emergency Control Act of 1986.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

NOTIFICATION OF ADJUSTMENT OF MAXIMUM DEFICIT AMOUNT OF BUDGET—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended ("Act") (2 U.S.C. 904(c)), notification is hereby provided by my decision that the adjustment of the maximum deficit amount, as allowed under section 253(g)(1)(B) of the Act (2 U.S.C. 903(g)(1)(B)), shall be made.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1993.*

TRIBUTE TO JUSTICE THURGOOD MARSHALL

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. EDWARDS of California. Mr. Speaker, it was with great sadness that we read in the morning paper of the passing of Justice Thurgood Marshall. Justice Marshall was truly one of the giants of the civil rights movement in the United States. He was born in Baltimore 84 years ago of modest family background. His mother was a schoolteacher and his father a steward in a yacht club. He fought his way through college, through law school, and in 1954 was the NAACP lawyer that went to the Supreme Court and won very probably the greatest civil rights decision in history, *Brown* v. *Board of Education.*

In 1967, Lyndon Johnson appointed Thurgood Marshall to the Supreme Court. From then until his retirement 1½ years ago because of ill health, he continued as truly one of the great giants in American history.

I can remember many times going before the Court in the modest duties that we have in Congress when we must swear in a constituent. It was always a great thrill to see Thurgood Marshall sitting on the Court and to reflect on the great contributions he had made throughout his life for equality, for fair play, and for our constitutional rights as guaranteed by the Bill of Rights.

Mr. Speaker, I include for the RECORD the well-written article from the Washington Post this morning about his life.

THURGOOD MARSHALL, RETIRED JUSTICE, DIES

(By Joan Biskupic)

Retired Supreme Court Justice Thurgood Marshall, a relentless voice for minorities whose six-decade legal career was emblematic of the civil rights revolution, died yesterday of heart failure.

He was 84 years old and had been retired since June 1991. Marshall had been in failing health in recent months. He died at the National Naval Medical Center in Bethesda, where he had been since Thursday. He had planned to administer the oath of office to Vice President Gore last Wednesday, but could not because of his condition.

Marshall, who was born in Baltimore the son of an elementary school teacher and yacht-club steward, went on to become one of the most important figures in civil rights history, first as a lawyer for the National Association for the Advancement of Colored People (NAACP) and then as the first black Supreme Court justice. He was known for both his sense of humor and his impatience over the ongoing struggle of blacks in America.

"He was somebody who had absolutely no sense of his own importance," said Louis Michael Seidman, a former Marshall clerk who is now a Georgetown University constitutional law professor. "He held an unusual combination of reverence for the American justice system and a realization that his people were excluded."

In 1967, President Lyndon B. Johnson appointed Marshall to the court. During his 24-year tenure, he was the only black justice. He was replaced by Clarence Thomas, also a black man, but one who adopted a judicial approach that is the opposite of Marshall's liberalism.

Marshall's record on the court was consistent: Always the defender of individual rights, he sided with minorities and the underprivileged; he favored affirmative action and supported abortion rights, and he always opposed the death penalty.

But he was not the liberal leader that retired Justice William J. Brennan Jr. once was. He did not strive for consensus, and as a result was the author of few significant majority opinions.

In a statement, President Clinton said Marshall was "a giant in the quest for human rights and equal opportunity in the whole history of our country."

Chief Justice William H. Rehnquist said Marshall will be remembered as much for his work before coming to the court as afterward for "his untiring leadership in the legal battle to outlaw racial discrimination."

Before Marshall joined the court, he had distinguished himself as the country's first black solicitor general, serving in that post from 1965 to 1967 and taking a lead in promoting the Johnson administration's civil and constitutional rights agenda.

Marshall came to national prominence as the chief lawyer for the NAACP Legal Defense and Education Fund, when he argued a series of 1954 school desegregation cases known collectively as *Brown* v. *Board of Education.* The Supreme Court ruled in those cases that segregation in public schools was unconstitutional.

As a lawyer, Marshall also took the lead in litigation that ended white-only primary elections and explicit racial discrimination in housing contracts.

His greatest cause was defendants' rights, and when he left the court two years ago, he was the last of the justices to oppose the death penalty.

People close to him said frustration with the court's conservative turn in recent years prompted his retirement.

But at a news conference at the time, Marshall blasted suggestions that his retirement stemmed from anger about the future of the conservative-dominated court.

"What's wrong with me?" Marshall said impatiently. "I'm old. I'm getting old and coming apart."

Such was the style of a man who could be eloquent or, when he wanted, slip into slang and black dialect. When he was asked what he was going to do in retirement, he said, "Sit on my rear end."

He was 6-foot-2, a physically imposing man who always appeared to be coming out of his black robes, and had a distinctive gravelly voice. He said he wanted to be remembered this way: "That he did what he could with what he had."

Marshall's roots were unlike those of any other justice before him.

He was born July 2, 1908. The great-grandson of a slave brought to America from Africa's Congo region, Marshall was named after a paternal grandfather, who had chosen the name "Thorough Good" for himself when enlisting in the Union army during the Civil War. Marshall later changed it to Thurgood.

His mother was an elementary school teacher and his father a steward at an all-white yacht club on the Chesapeake Bay.

Marshall attended Douglas High School in Baltimore, working as a delivery boy for a women's store after school.

He later confessed to having been a bit of a cutup in high school and college. He recalled that in high school he often was punished by being sent to the basement and forced to memorize "one paragraph of the Constitution for every infraction. . . . In two years, I knew the whole thing by heart," he said.

Marshall attended the all-black Lincoln University in Pennsylvania, earning money for tuition by waiting tables.

He obtained his law degree from Howard University in 1933, graduating first in his class.

Marshall attributed his interest in law to "arguing with my dad. We'd argue about everything." He also credited his father with instilling in him a fighting spirit. "Son," he once recalled his father saying, "if anyone ever calls you a nigger, you not only got my permission to fight him, you got my orders to fight him."

Marshall remembered carrying out those orders one time when, as a delivery boy, he accidentally brushed against a woman on a Baltimore trolley car because he couldn't see over a stack of hat boxes he was carrying. A white man called him "nigger" and Marshall took him on.

Marshall began practicing law in Baltimore after graduating from Howard. One of his first civil rights cases was a successful effort to gain admission for a young black man to the University of Maryland Law School.

Three years later, he was hired as an assistant to the national counsel for the NAACP and two years later became chief counsel.

In late 1939, he created the NAACP Legal Defense and Educational Fund, and as its head from 1940 to 1961 he worked within the legal system to improve minority rights.

Traveling around the country, he won dozens of civil rights victories. He recalled in recent years how he was often run out of town by whites who despised his work for black liberation.

Marshall won all but three of the 32 cases he argued before the Supreme Court, including the 1954 *Brown* ruling. That landmark decision ended "separate but equal" school systems. He achieved *Brown* through a series of court cases over several years, methodically dismantling the foundations of segregation.

He also was at the lead in the integration of the Little Rock, Ark., Central High School in 1957, as well as crafting successful legal arguments against poll taxes, racial restrictions in housing and white primary elections.

In 1961, President John F. Kennedy selected Marshall for the U.S. Court of Appeals for the 2nd Circuit. The nomination initially was opposed by southern Democrats in the Senate, who claimed he lacked legal qualifications for the job. But Marshall was approved several months later, becoming the second black judge to sit on the 2nd Circuit.

Marshall served on the appeals court until 1965, when Johnson appointed him solicitor general of the United States, the government's top lawyer at the Supreme Court. Johnson had several civil rights victories at the court while Marshall was solicitor general, including high court approval for the 1965 Voting Rights Act.

Marshall also provided the government's backing to a case that led to the overturning of a California constitutional amendment prohibiting open housing legislation.

On June 13, 1967, at 11 a.m., Marshall called his wife, Cecilia, from the White House. "Take a deep breath and sit down slowly," he reportedly told her. Then Johnson's voice came on the line and told her Marshall had just been nominated to the Supreme Court.

The Senate confirmed Marshall 69 to 11 on August 30, 1967, making him the first black justice in the court's 178-year history. He faced criticism from only a few southern senators, who attacked his "activist" temperament.

But Marshall was to join likeminded brethren. The court was then led by Chief Justice Earl Warren, who already had begun a judicial and social revolution.

Through the 1970s, Marshall was more regularly a steady vote for the opinions of liberal-leaning justices than author of major opinions himself.

In 1972, when the court struck down capital punishment as it was being practiced, he wrote one of the most definitive statements on the death penalty:

"Death is irrevocable. Life imprisonment is not. Death, of course, makes rehabilitation impossible. Life imprisonment does not. In short, death has always been viewed as the ultimate sanction. . . . In striking down capital punishment, this court does not malign our system of government. On the contrary, it pays homage to it. . . . In recognizing the humanity of our fellow beings, we pay ourselves the highest tribute."

In that landmark ruling, *Furman* v. *Georgia*, the court set out procedural safeguards that states must follow if they wish to impose the death penalty, and since then a majority of the states have reinstituted capital punishment.

It was to be Marshall's dissents, particularly in death penalty cases, thundering with indignation, that gained most attention. He was suspicious of police searches and interrogation. He took a similar liberal tack in other areas, disdaining restrictions on speech, government expenditure benefiting religion and the weakening of environmental regulations.

In a partial concurrence in *Univerity of California Regents* v. *Bakke* that endorsed a broader remedial use of race-conscious programs, he wrote in 1978: "It must be remembered that, during most of the past 200 years, the Constitution as interpreted by this court did not prohibit the most ingenious and persuasive forms of discrimination against the Negro. Now, when a state acts to remedy the effects of that legacy of discrimination, I cannot believe that this same Constitution stands as a barrier.

"At every point from birth to death, the impact of the past is reflected in the still-disfavored position of the Negro. In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order. To fail to do so is to ensure that America will forever remain a divided society."

Legal scholars say that Marshall's most important doctrinal contribution likely came in a dissent to the 1973 *San Antonio Independent School District* v. *Rodriguez*. In that Texas case a five-justice majority said an education is not a fundamental right guaranteed by the Constitution.

In an opinion by Lewis F. Powell Jr., the court said the constitutional guarantee of equal protection does not require that courts apply the strictest level of scrutiny to state decisions on how to finance public schools.

Marshall favored a different standard for determining whether state or federal laws violated equal protection guarantees, and his sliding scale approach influenced the court in later years to give greater scrutiny to government decisions and more broadly read equal protection guarantees.

In the years closer to his retirement, Marshall increasingly assumed a defensive role.

Until his close friend Brennan retired in 1990, it was just the two of them who would dissent from any decision that would lead to the execution of a defendant. he considered the death penalty immoral in principle and discriminatory in application.

"I'll never give up," he said in an interview in December 1983. "On something like that, you can't give up and you can't compromise. It's so morally correct."

On the day he resigned—June 27, 1991—Marshall fired a parting shot that embodied his vigilance for criminal defendants and minorities generally.

It was in a dissent in *Payne* v. *Tennessee*, a case in which a narrow majority upheld the use of "victim impact" statements in death penalty cases, overruling two earlier cases that had prohibited such evidence from being introduced.

Marshall believed that the focus on a victim's character and his family's suffering would shift jury attention from whether the defendant was guilty to the victim's character and be difficult for the defendant to rebut.

Objecting to the conservative majority's overturning of precedent, Marshall wrote, "Tomorrow's victims may be minorities, women or the indigent. Inevitably, this campaign to resurrect yesterday's 'spirited dissents' will squander the authority and legitimacy of this Court as a protector of the powerless."

Marshall's overall health and his eyesight began to deteriorate in recent years. He had had a heart attack in 1976. He wrote fewer opinions and appeared to have difficulty reading from the bench the ones he did write.

He was hospitalized in 1987 with a blood clot in his right foot, and had been in and out of hospitals since.

But he never lost any of his exuberance.

Shortly before Marshall retired, Justice Byron R. White quipped to a law clerk, "In my 25 years here, Justice Marshall has told 1,000 stories and never the same one twice."

And friends say Marshall never forgot that he was black.

In his 1991 farewell news conference, he was asked whether he considered blacks, in the words of the Rev. Martin Luther King Jr., "free at last."

"Well, I'm not free. All I know is that years ago, when I was a youngster, a Pullman porter told me that he had been in every city in this country . . . and he had never been in any city in the United States where he had to put his hand up in front of his face to find out he was a Negro. I agree with him."

Marshall's first wife, Vivian Burney, died in February 1955. He married Cecilia A. Suyat in late December of that year. He is survived by his wife, Cecilia, and their two sons, Thurgood Marshall Jr. and John William Marshall, all of Northern Virginia, and four grandchildren.

From every corner of the globe there are people who believe in the American dream. What is that dream?

It is that all persons—no matter their race, creed, color, gender or disability—are created equal and entitled to life, liberty and the pur-

suit of happiness. Mr. Justice Thurgood Marshall challenged us to make the dream a reality for all.

Thurgood Marshall helped lead the way in codifying that dream into law. As one of the chief strategists and litigators at the NAACP and later, as a thoughtful and principled jurist, Justice Marshall was at the center of the modern civil rights movement. That movement made this Nation confront and dismantle its legally sanctioned system of apartheid.

Today, our Federal civil rights laws prohibit discrimination based upon race, color, religion, national origin, sex, and disability. And an effort will be made in the 103d Congress to prohibit discrimination based upon sexual preference.

Those resistant to change have argued that what we must change are hearts not laws. Well, Justice Marshall's lifelong battle demonstrated to the Nation and the world that changing laws means changing behavior—eventually the hearts may follow. Public support for civil rights is stronger today, than it was when Thurgood Marshall created the NAACP Legal Defense and Education Fund in 1939.

Today, the dream is beyond the grasp of far too many Americans. And no one recognized that more than Justice Thurgood Marshall. But if there is one lesson we have learned from him it is that we must be vigilant in our quest for the dream. Because if we give up that quest, we lose our greatness as a nation.

ELECTION OF MEMBER AS CHAIRMAN OF COMMITTEE ON THE BUDGET

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I call up a privileged resolution (H. Res. 39) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 39

The following-named Member be and is hereby elected as chairman of the following standing committee of the House of Representatives:

Committee on the Budget: Martin Olav Sabo, Chairman.

Mr. HOYER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NEWS REPORTING ON ATTACKS ON BAGHDAD

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, some recent evenings ago Dan Rather commenced his nightly newscast by informing his viewers that President Bush had ordered the United States to attack Baghdad. The implication was "Here is Bush and the Americans ganging up on Saddam again." This attack ensued, of course, because of Saddam's repeated violations of the U.N. resolutions.

□ 1210

I am not suggesting that media representatives generously lace their stories with pro-American spins. I am suggesting, however, that they refrain from attaching anti-American spins to their reports when to do so would be inappropriate.

Mr. Rather's choice of delivery, in my opinion, was indelicate at best, deceptive, misleading, and distorted at worst.

THE LIFE OF JUSTICE THURGOOD MARSHALL

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the modern civil rights era ended yesterday at 2 p.m. with the passing of Thurgood Marshall. Hearing cases as a court of appeals judge until the end, Marshall seemed to keep the era alive all by himself. Now we must complete the work of equality he masterminded without him.

Any one of the several roles he played so well would have won him a unique place in the Nation's history: The greatest courtroom lawyer perhaps in our entire history, the first black Solicitor General, the first African-American Supreme Court Justice, and a crucial figure in the Supreme Court majority that reshaped the American Constitution and, of course, the architect of the most important decision of the 20th century, *Brown* v. *Board of Education*.

I am personally indebted to the man whose work desegregated the public schools of the Nation's Capital, where I sat on May 17, 1954, hearing the principal announce what the decision meant to us. And the Nation will forever be in the debt of the man whose work made possible the peaceful overthrow of segregation.

OVERREGULATION OF BUSINESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, the time has come for the Congress to move forward in dealing with the problems of this country. During the campaign there were, of course, many definitive lists of problems and solutions. Now it appears that in some ways that the imperative to deal with those has gone.

The Congress, through its leadership, should set some priorities and standards and an agenda of the major issues and a timetable to resolve them. Too often the Congress is a series of individual voices, all seeking to be heard and seen and concerned only with the interests of their own districts. No collective priorities seem to appear.

I want to share a priority of mine, reducing excessive regulation. We all want the economy to grow, to make new jobs, to protect the jobs that now exist and increase the quality of jobs. Yet clearly, we overregulate business and destroy the incentive to create those jobs.

We need a system of regulatory measurement, it seems to me, to see if the regulation squares with the statute, to indeed measure and see if the regulation is effectively administered. Is there a cost-benefit ratio?

Finally, do regulations produce the desired result? I intend to introduce a bill that will provide for these measures.

IN TRIBUTE TO THE LATE HONORABLE JUSTICE THURGOOD MARSHALL

(Mr. BARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCIA. Mr. Speaker, the lamp went out yesterday on one of our Nation's brightest lights. Thurgood Marshall's life illuminated the path for us all. He taught us about the law and about equal justice under the law. Most of all he taught us how to live—with dignity and courage and hope. No man loved this country more or held it to a higher standard. In so many areas, his standard is now America's and we are better for it. His great laugh now graces the heavens as it did our land. Our prayers go out to the Marshall family along with our gratitude for their having shared his brilliant life with so many grateful people.

CLINTON: THE ABORTION PRESIDENT

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, Mr. Clinton promised Americans he would have his economic plan on the table the day after inauguration day.

Where is it?

Instead, in a revelation of priorities, Mr. Clinton issued orders establishing several new policies promoting abortions for teenagers and military personnel, accelerating importation of RU486—the dangerous new baby poison from France, a policy pushing abortions as birth control in developing countries, and a new policy that allows baby brains and body parts to be transplanted with Federal funds—turning those child victims into unwitting guinea pigs.

Mr. Clinton isn't the economic President. Mr. Clinton is the abortion President. Mr. Clinton—a captive of the abortion industry—says he wants abortions to be "rare" and then turns around and aggressively promotes new antibaby policies that will lead to more abortions. He turns logic on its head. Saddest of all, many babies will die cruel deaths by chemical poison or dismemberment both here and abroad because of Mr. Clinton's new antichild policies.

SEMATECH RESEARCH PROJECT UPDATE

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I rise to congratulate my colleagues in the U.S. Congress for their foresight and wisdom in funding the Sematech research project. The project is paying dividends beyond our greatest expectations, and is one of the greatest success stories of the past 5 years.

I am happy to note that our national research semiconductor computer consortium, Sematech, has achieved its primary mission and has done so on schedule and under budget.

Sematech has developed semiconductor chips as small as .35 micron, and has done so using equipment that is 100 percent American-made.

This is half the size of the current state-of-the-art product. This accomplishment is being viewed by many in the computer industry as one of the most important advances in decades.

To put this amazing technological advance in perspective, let me give an analogy: If one were to imagine a computer chip being the size of Washington, DC, these new components would be the size of a small apple.

The benefits of this technology are extraordinary. It will allow the vast expanse of semiconductor power, and will enhance national security since it uses only American technology.

Mr. Speaker, this development once again underscores the success of the Sematech research project. This wonderful public/private partnership has returned the United States to its rightful place as leader of the world's semiconductor industry.

Five years ago, when Sematech began operation, American companies controlled just 40 percent of the chip equipment making industry. We now control 53 percent, and virtually all observers, from the trade press to industry analysts to our own GAO give the credit to Sematech.

Clearly, the Federal investment, matched by private funding, has more than paid off, and we can all be proud of a project that will continue to enhance our strategic and economic security for years to come.

ANOTHER DEMOCRATIC TAX INCREASE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, according to the news, the latest Democratic tax increase has been proposed. This new Democratic tax increase, proposed by Treasury Secretary Bentsen, will be a tax increase on consumption and probably an energy tax, so taxing the rich, the Democrats' battle cry now becomes taxing everyone.

An energy tax will tax everyone with air-conditioning. An energy tax will tax everyone who drives a car or truck. An energy tax will tax everyone who buys manufactured and transported goods because both manufacturing and transporting require energy.

Apparently, the Democrats believe if one uses energy, one must be rich. It took less than 1 week in office for the Democrats to abandon a middle class tax cut and replace their campaign pledge with a tax increase on everyone, from poor to middle class to wealthy.

JUSTICE THURGOOD MARSHALL

(Mr. MAZZOLI asked and was give permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, rarely has the death of an individual evoked the outpouring of tributes, encomiums, and high statements as has the death, the unfortunate death, this weekend of Justice Thurgood Marshall, formerly of the U.S. Supreme Court.

Justice Marshall served for nearly a quarter century on the high court, during which he rendered opinions, always in favor of the little person, the person who was having a difficult time being recognized as a human being and, of course, his great hallmark as a lawyer was his argument, successfully, before the Court in the Brown versus Board of Education case which destroyed the separate-but-equal doctrine of public education.

□ 1220

Mr. Speaker, this outpouring, probably more than anything else, demonstrates not only the worthwhileness of this individual as a man, as a lawyer, as a jurist, but also it demonstrates how firmly and forever he will be held in high regard by this Nation as one of its great historical figures.

I join with all of our colleagues in the House and all of our citizens in the country in extending to Mrs. Marshall and to the family our deep condolences on his tragic death.

HISTORIC EXECUTIVE ORDERS SIGNED BY PRESIDENT CLINTON

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, because of all the emphasis on Zoe Baird this weekend, an awful lot of people missed the incredible historic significance of the Executive orders signed by President Clinton. With one stroke of the pen he said that over half America's population will be treated as adults by the Federal Government. With one stroke of the pen he lifted the gag rule, which says that when women go to family planning clinics they can be treated as adults and hear about all sorts of different options available to them if the medical people there think they need to.

Second, with one stroke of the pen he took politics out of science again, so that people with Alzheimer's, Parkinson's disease, juvenile diabetes, once again can see that research get back on track that they were doing with fetal tissue. With a stroke of the pen, he started treating women in the military with the same rights as the women that they are defending back home, and with a stroke of the pen he said, "Let us look again at our policy on RU486. It should maybe be let into this country," to look at tumor treatment and all the other things that should happen.

I think the reason there was a 20-percent gap between working women supporting Bush, that terrific gender gap, was because they were tired of the Federal Government not seeing them as adults. I am very, very pleased that one of President Clinton's first acts was to start treating women as adults and the Federal Government getting out of their personal lives.

AMERICA HAS LOST A TRUE HERO, THURGOOD MARSHALL

(Mr. WYNN asked and was given permission to address the House for 1 minute.)

Mr. WYNN. Mr. Speaker, we have lost a champion for civil rights this past weekend. Supreme Court Justice Thurgood Marshall, the great-grandson of a slave, the 84-year-old maverick and champion of civil rights, passed away of heart failure. Marshall fought for racial justice his entire career, but he started his illustrious career not very from from here, when as a young attorney just out of Howard University he battled to get a young African-American into the University of Maryland. He continued his battle for 20 years, and in 1954 as an attorney for the NAACP he won a series of landmark desegregation cases referred to as Brown versus Board of Education.

Marshall said that the separate but equal philosophy of the times was inherently unequal and unfair. The Court concurred, and American history was changed forever. Marshall accomplished many firsts in his career. He

served as the first black Solicitor General, where he was acting as the Federal Government's highest ranking attorney at the Supreme Court. Appointed by Lyndon Johnson, he went on to become the first black member of the Supreme Court, where he served for 24 years. He fought many battles for the environment, against housing discrimination, and against poll taxes, but he is best remembered for his work in education and his conviction that no matter what their skin color, every American has a constitutional right to an education.

Thurgood Marshall said that in light of the sorry history of discrimination and its devastating impact on the lives of negroes, bringing the negro into the mainstream of American life should be a state of interest of the highest order. To fail to do so is to ensure that America will forever remain a divided society. Thanks to Thurgood Marshall, we are moving toward a unified society.

Mr. Speaker, America has lost a true hero, Thurgood Marshall.

DEFEAT PREVIOUS QUESTION TO SUNSET SELECT COMMITTEES

The SPEAKER pro tempore (Mr. KOPETSKI). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, tomorrow and Wednesday the House will take up resolutions to reauthorize four nonlegislative select committees. I will ask for a vote to defeat the previous question on each in order to offer an amendment to sunset them at the end of this year.

We have already eliminated some 16 standing subcommittees this year in order to better focus the work of our standing committees and House Members. It makes little sense to continue these nonlegislative select committees when we are otherwise trying to restore and strengthen our standing committee system.

The issue before the House this week is not whether these select committees have performed a valuable service. Almost everyone would concede that they have. The real issue is whether we want to begin the process of reforming this institution by eliminating extraneous entities and staff so that the House may better address its legislative and related oversight responsibilities.

This is not a partisan issue. My sunset approach was offered in the Democratic Caucus by Representatives CARDIN and SYNAR and was originally proposed by the nonpartisan, joint AEI-Brookings "Renewing Congress" First Report issued last November.

At this point in the RECORD, Mr. Speaker, I include a colleague letter sent today, the text of the sunset amendments, our minority views to the Rules Committee reports accompanying each of these resolutions, the text of the Cardin-Synar resolution, and excerpts from the Congressional Quarterly story, the relevant excerpt from the AEI-Brookings report, and a story from this week's Roll Call. The items follow:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 25, 1993.

VOTE TO SUNSET FOUR SELECT COMMITTEES

Dear Colleague: On Tuesday and Wednesday of this week, the House will consider resolutions to reestablish four non-legislative select committees. I urge you to vote "no" on the previous question so that I can offer amendments to sunset them at the end of this year.

As you may know, select committees are supposed to be temporary entities created for special purposes and limited time periods. And yet, the pending select committees have been in existence for 52 years at a total cost of nearly $45 million, and see no need to ever terminate themselves. Below is a table comparing the life-span and costs of each:

Select committee	Created	Total years	Total costs (in millions)
Aging	1974	18	$21.9
Narcotics	1976	16	10.5
Children, Youth, etc	1982	10	6.9
Hunger	1984	8	5.3

The one-year sunset amendment I am offering is designed to allow the Joint Committee on the Organization of Congress to report to the House its recommendations as to whether these select committees should be continued beyond this year. This approach was proposed in the joint AEI-Brookings "Renewing Congress" First Report issued last November, and was reflected in the Cardin-Synar resolution in the Democratic Caucus last December. Strike a real blow for congressional reform: vote "no" on the previous question and "yes" for this sunset approach.

Sincerely,

GERALD B. SOLOMON,
Member of Congress.

H. RES. 19

(Creating a Select Committee on Aging)

(An amendment offered by Mr. Solomon of New York.)

At the end of the resolution, add the following new section:

"SEC. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 30

(Creating a Select Committee on Aging)

(An amendment offered by Mr. Solomon of New York.)

At the end of the resolution, add the following new section:

"SEC. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 23

(Creating a Select Committee on Children, Youth & Families)

(An amendment offered by Mr. Solomon of New York.)

At the end of the resolution, add the following new section:

"SEC. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 18

(Creating a Select Committee on Hunger)

(An amendment offered by Mr. Solomon of New York.)

At the end of the resolution, add the following new section:

"TERMINATION OF SELECT COMMITTEE"

"SEC. 7. (a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 20

(Creating a Select Committee on Narcotics Abuse & Control)

(An amendment offered by Mr. Solomon of New York

At the end of the resolution, add the following new section:

"SEC. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

MINORITY VIEWS ON REAUTHORIZING FOUR SELECT COMMITTEES

"For many are called, but few are chosen." (Matthew 22:14)

The word "select" is from the Latin *selectus*, meaning "chosen." Unfortunately, things have gotten to such a point in the House that some select committees think they are among the "chosen few," entitled to eternal life by Holy Writ.

In point of fact, select committees are rooted in a more mundane sense of the term: "limited." They are created for a limited purpose and a limited time. In the early Congresses, select committees were appointed to draft specific bills. And, once they had reported, they would go out of existence. With the development of standing, legislative committees in the early 19th Century, select legislative committees fell into disuse.

But that was not the end of select committees. Instead, they took on a new life and purpose of their own as select investigating committees. And, with this new role, they gained in popularity and number. But still, they were limited in purpose and duration.

During World War II, they proliferated to such an extent that the Joint Committee on the Organization of Congress in 1945 was charged with examining the whole committee system, including the overlapping jurisdictions between and among select and standing committees.

The Joint Committee reported back in 1946, recommending a consolidation and reduction in standing committees in both Houses, and that in the future, "the practice of creating special committees of investigation be abandoned."

While the Joint Committee's recommendation was honored for awhile, it was soon forgotten, and select committees again began to proliferate. The problem became sufficiently serious that on May 18, 1977, this Committee adopted a motion directing its Subcommittee on the Rules and Organization of the House, chaired by Rep. Gillis Long (D–LA), to conduct a full and comprehensive study of the history and philosophy of select committees and detailed review of pending resolutions to create various select committees. The Subcommittee reported back on October 31, 1977, in a report entitled, "Guidelines for the Establishment of Select Committees." In its opening paragraph, the Subcommittee had this to say about select committees:

"The Subcommittee on Rules and Organization of the House recognizes that special circumstances sometimes justify the creation of select committees. In general, however, the proliferation of such committees adds to spiraling congressional costs, exacerbates already serious space problems, imposes additional committee burdens on Members, and may interfere with the effectiveness of the standing committee system. (p. 2)"

The Subcommittee went on to recommend a set of criteria to be used by the Rules Committee in considering proposals to create select committees. These included: the need for select committees to focus on a significant and major issue; the failure of the present committee system to address the issue effectively; a clear definition of the subject matter and objectives of the proposed select committee; a delineation of the methodology to be used by the select committee in its inquiry and its expected products; the specification of a *definite* length of time for the proposed select committee to exist; and an outline of the cost factors involved in the creation of the select committee. The report also contained a model resolution to be used for the creation of select committees and a questionnaire to be filled-out by those proposing their creation.

While it was the clear intent of the Rules Committee in 1977 (and again in 1983 when it reissued an updated version of the report) that select committees, if they were found to be absolutely necessary, should only exist for a Congress or two at the most, the record of the four current non-legislative select committees makes it quite clear that view is not shared by them. The life-spans of these select committees and their total costs to date are as follows:

Select committee	Created	Total years	Total costs (in millions)
Aging	1974	18	$21.9
Narcotics	1976	16	10.5
Children, Youth, etc.	1982	10	6.9
Hunger	1984	8	5.3

All told, these four, non-legislative select committees have existed for 52 years and spent $44.7 million since their inception. In calendar year 1992, their total authorization level was $3.7 million ($7.4 million for the 102nd Congress), operating with a total staff of 91. [See Tables 1. & 2. accompanying these views.]

The House cannot turn a deaf ear at a time when the American people are calling on the Congress and President for change, including a top-to-bottom reform of both Branches. Moreover, President Clinton has pledged a 25% reduction in White House staff and has called on Congress to reduce its staff by the same amount. And the best place to begin is by abolishing all four non-legislative select committees.

We do not make this recommendation lightly, or out of any criticism of the work performed by these select committees over the years. They have indeed been engaged in a very noble calling, have conducted some very helpful hearings and studies, and have issued some extremely informative reports.

But, as the Congress undertakes a comprehensive overhaul of the institution through the new Joint Committee on the Organization of Congress, we strongly feel that the elimination of these select committees now will enable the Joint Committee to concentrate its efforts on how best to realign and strengthen our standing committees in a way that best serves the House, its Members, the Congress and the American people. By focusing now on deficiencies in the current committee system, the Joint Committee will better be able to design a standing committee structure for the challenges of the Twenty First Century.

While our preference would be to terminate all four select committees within 30-days after the adoption of this resolution, we are willing to allow the House a vote on a compromise to sunset the select committees at the end of this year. This was originally recommended by the Democratic Caucus Committee on Organization, Study and Review as well as by the joint Brookings-AEI Renewing Congress Project. We offered this alternative in the Rules Committee and unfortunately, the Committee majority was even unwilling to allow the House a vote on such a compromise. We will therefore urge defeat of the previous question on the resolution so that it might be amended to provide for a one-year sunset of the select committees.

GERALD B. SOLOMON.
JAMES H. QUILLEN.
DAVID DREIER.
PORTER GOSS.

TABLE 1.—FUNDING FOR CURRENT HOUSE NONLEGISLATIVE SELECT COMMITTEES FROM INCEPTION

	Name of Select Committee				
	Aging	Narcotics	Children	Hunger	Total
Year:					
1975	$600,000	.....	.....	.....	$600,000
1976	580,000	$111,667	.....	.....	691,667
1977	787,625	722,204	.....	.....	1,509,829
1978	985,891	722,204	.....	.....	1,708,095
1979	1,050,000	700,000	.....	.....	1,750,000
1980	1,233,000	600,000	.....	.....	1,833,000
1981	1,233,000	540,000	.....	.....	1,773,000
1982	1,223,680	540,000	.....	.....	1,763,680
1983	1,316,057	616,823	$534,608	.....	2,467,488
1984	1,398,373	643,643	700,000	$449,250	3,191,266
1985	1,454,308	662,952	721,000	616,970	3,455,230
1986	1,321,499	602,410	655,157	560,627	3,139,693
1987	1,361,144	620,482	674,812	577,446	3,233,884
1988	1,388,367	632,892	688,308	588,995	3,298,562
1989	1,430,018	651,879	708,957	606,665	3,397,519
1990	1,481,499	700,770	734,479	628,505	3,545,253
1991	1,542,240	729,502	764,593	654,274	3,690,609
1992	1,542,240	729,502	764,593	654,274	3,690,609
Total	21,928,941	10,526,930	6,946,507	5,337,006	44,738,650

Sources: House Administration Committee, based on authorizations approved by the House in annual committee funding resolutions; "Guidelines for the Establishment of Select Committees," House Committee on Rules, Subcommittee on the Legislative Process 98th Congress, Feb. 1983 (Subcommittee Print); "Congressional Committee Staff and Funding," by Carol Hardy Vincent, Government Division, Congressional Research Service, Issue Brief (IB82006), Sept. 24, 1990 & Aug. 7, 1992.

TABLE 2.—MEMBER AND STAFF RATIOS ON HOUSE COMMITTEES, 102D CONGRESS

	Total members	Party ratio Democrat/Republican		Total staff	Staff ratio Democrat/Republican		Staff member ratio
		Number	Percent		Number	Percent	
Committee:							
Agriculture	45	27/18	60/40	63	43/20	68/32	1.4:1
Appropriations	59	37/22	63/37	221	167/54	76/24	3.7:1
Armed Services	54	33/21	61/39	83	NA	.....	1.5:1
Banking	52	31/20	60/40	116	90/26	78/22	2.2:1
Budget	37	23/14	62/38	96	69/27	72/28	2.6:1
District of Columbia	11	7/4	64/36	39	28/11	72/28	3.5:1
Education and Labor	37	23/14	62/38	121	96/25	79/21	3.3:1
Energy and Commerce	43	27/16	63/37	151	122/29	81/19	3.5:1
Foreign Affairs	43	26/17	60/40	104	80/24	77/23	2.4:1
Government Operations	41	25/15	61/39	86	69/17	80/20	2.1:1
House Administration	24	15/9	63/37	73	56/17	77/23	3.0:1

TABLE 2.—MEMBER AND STAFF RATIOS ON HOUSE COMMITTEES, 102D CONGRESS—Continued

	Total members	Party ratio Democrat/Republican		Total staff	Staff ratio Democrat/Republican		Staff member ratio
		Number	Percent		Number	Percent	
Interior	42	26/16	62/38	83	64/19	77/23	2.0:1
Judiciary	34	21/13	62/38	71	57/14	80/20	2.1:1
Merchant Marine	45	28/17	62/38	77	56/21	73/27	1.7:1
Post Office	22	14/8	64/36	84	65/19	77/23	3.8:1
Public Works	55	34/21	62/38	98	67/31	68/32	1.8:1
Rules	13	9/4	69/31	48	35/13	73/27	3.7:1
Science	51	32/19	63/37	85	67/18	79/21	1.7:1
Small Business	44	27/17	61/39	53	35/18	66/34	1.2:1
Standards	14	7/7	50/50	11	NA	.....	0.8:1
Veterans' Affairs	34	21/13	62/38	43	29/14	67/33	1.3:1
Ways and Means	36	23/13	68/22	90	68/22	76/24	2.5:1
Select Committees:							
Aging	68	41/27	60/40	37	27/10	73/27	0.5:1
Children, Youth, Families	36	22/14	61/39	20	13/7	65/35	0.6:1
Hunger	33	21/12	64/36	16	10/6	63/37	0.5:1
Intelligence	21	13/8	62/38	18	NA	.....	0.9:1
Narcotics	35	21/14	60/40	18	12/6	67/33	0.5:1
October Surprise Task Force	13	8/5	62/38	10	6/4	60/40	0.8:1

Notes.—At the outset of the 102d Congress there were 267 Democrats (61%) to 167 Republicans (38%) and one Independent.

Sources: "The Congressional Standing Committee System," by Carol Hardy Vincent, Government Division, Congressional Research Service, September 14, 1992 (92–707 GOV); Committee Budget Submissions to and Minority Staff Surveys, House Administration Committee, February 20, 1992; Telephone Directory, U.S. House of Representatives, Summer, 1992; "Congressional Committee Staff and Funding," by Carol Hardy Vincent, Government Division, Congressional Research Service, August 7, 1992 (IB82006).

[From "Renewing Congress: A First Report," American Enterprise Institute & the Brookings Institution, November 1992]

PHASEOUT OF SELECT COMMITTEES

Our reluctance to deal with specifics of committee reorganization does not extend to the four select committees without legislative jurisdiction: Aging, Hunger, Children, Youth, and Families, and Narcotics Abuse and Control. These were not created as permanent committees; they should not continue to exist as the virtually permanent entities they have become.

Select committees are politically attractive to members and interest groups and they have been known to conduct constructive hearings. However, most of their useful activities could readily be folded into existing entities, and the resources saved could be employed more effectively for higher-priority legislative activities.

It is possible to target the select committees for abolition now, as Congress reorganizes. But the issue should really be dealt with in the more comprehensive look at the committee system that will be undertaken by the Joint Committee. It therefore makes sense to keep the select committees on temporary life support until the permanent committee structure has been settled and their fate can be determined with greater clarity.

The Caucus should consider instructing the Rules Committee now to provide only a partial renewal for the select committees for the 103rd Congress—perhaps just for calendar year 1993.

[From the Congressional Quarterly Weekly Report, Dec. 12, 1992]

SELECT COMMITTEES SURVIVE

The select committees survived a push by Cardin and several other members to do away with them. At a last-minute meeting of the leadership rules panel Dec. 7, Cardin won approval of a three-part plan to phase out the five select committees, which are not authorized to write legislation.

The change would have denied the Select Aging Committee the permanent authorization it has under current House rules, given the select committees only a one-year extension and directed the Joint Committee on the Organization of Congress to review them.

Charles B. Rangel, D–N.Y., who chairs the Select Narcotics Abuse and Control Committee, strenuously opposed the Cardin plan. After a heated debate, the caucus agreed to strike the one-year reauthorization language.

"When members realize we're going to have to cut back funding for our own offices and committees, I suspect their views may change" to support the elimination of the select committees, said Oberstar, who backed the Cardin proposal.

Slaughter says that even if the select committees are retained permanently, their membership will dwindle because the caucus adopted new rules to strictly limit members to five subcommittees, counting select committees or task forces.

AMENDMENT TO THE RULES OF THE HOUSE OF REPRESENTATIVES OFFERED BY REPRESENTATIVE CARDIN AND REPRESENTATIVE SYNAR

Clause 6(i) of rule X of the Rules of the House of Representatives is repealed.

CAUCUS RESOLUTION

Resolved, That—

(1) the Democratic Caucus instructs and directs the Democratic Members of the Committee on Rules to vote in opposition to any resolution providing for the reauthorization of any select committee in the 103rd Congress if that resolution provides for the existence of any select committees covered by that resolution after December 31, 1993; and

(2) it is the sense of the Caucus that the Joint Committee on the Organization of Congress should examine issues related to the establishment and duration of select committees and make appropriate recommendations to the House of Representatives.

[From Roll Call, Jan. 25, 1993]

HOUSE TO DECIDE WHETHER TO KILL SELECT COMMITTEES, ONE BY ONE

(By Mary Jacoby)

The House will vote this week on the future of its embattled select committees—taking them up one by one.

But Republicans won't get a floor vote on their plan to eliminate the panels, en masse, at the end of this year. During a House Rules Committee hearing Thursday, Democrats turned aside Republican calls for a vote on a one-year sunset provision.

And, in an unusual move, the committee reported out four separate authorization resolutions rather than one omnibus resolution so that each panel can be judged on individual merits. Panels that win approval will be able to operate for the two years of the 103rd Congress, then face another vote in 1995.

As legislators face both public and internal pressures to streamline Congressional operations, the four panels—Aging; Children, Youth, and Families; Narcotics Abuse and Control; and Hunger—are feeling the squeeze. Republicans argue that the select committees, which lack the power to write legislation, waste money and resources doing work that could be covered by standing committees (and, in many cases, already is).

But at Thursday's hearing, the three chairmen of the select committees—plus another possible chairman-to-be—vigorously pleaded the case for their panels, a case that has been bolstered in recent weeks by the lobbying effort of outside groups ranging from the 33 million-member American Association of Retired Persons to the food assistance group Bread for the World (Roll Call, Jan. 18).

Rep. William Hughes (D–NJ), a member of the Aging Committee who is hoping to become its chairman, even used the threat of "100,000 letters" bombarding the Hill as an argument at the hearing against killing his panel.

But the call to abolish selects has gained steam in the wake of new House rules that forced many standing committees to cut subcommittees. Critics of the select committees note the incongruity of abolishing legislative subcommittees while keeping the nonlegislative selects.

A more direct blow to the selects was also included in the new rules: a provision that restricts Members to serve on only five subcommittees total, with select committees counted in the calculation. That move was intended to reduce the desire of Members to serve on the selects.

The Democratic Caucus's committee on organization, study, and review floated a proposal last year to eliminate the select committees entirely, but that proposal was left out of the rules package approved by the House this month after interest groups and select chairmen made emotional appeals.

Republicans tried to use procedural skirmishes Thursday in the Rules Committee to make the debate over selects an issue of Congressional belt-tightening. Democrats, however, prevailed in reporting a rule that will center discussion on the individual merits of each committee. Their intention was to remove the select-committee question from the general reform and budget-cutting debate now going on in Congress.

The full House will vote tomorrow and Wednesday on the four resolutions (two each day) that reauthorize each select committee for a full two-year period. Republicans had hoped to present a floor amendment that would terminate all the selects on Dec. 31, 1993.

The Rules Committee decision to report four separate authorizing resolutions rather than one omnibus resolution forces a floor vote on each select rather than on all of them together. This action was viewed as a victory for the Hunger and Narcotics Committees, which are considered the strongest of the four panels and a defeat for the Aging and Children, Youth, and Families panels, which are considered the more controversial.

A fifth select committee—Intelligence—is permanent and does not require reauthorization.

Republicans on the Rules Committee had opposed separate resolutions because such a method would divert attention from the larger issue of reform.

Rep. Gerald Solomon (R-NY), ranking member of the Rules Committee, also argued that the Joint Committee on the Organization of Congress could release recommendations on a general overhaul of the committee system as early as August and that the selects should not be locked into two more years until those recommendations are received.

An amendment to the new House rules package directed the joint committee to review the selects. The majority of the Democratic Rules Committee members, however, felt the selects should be considered on their merits, according to a Rules staffer.

Rep. Tony Hall (D-Ohio), who has the advantage of being both the Hunger Committee chairman and a Rules Committee member, said he supported reporting the resolutions separately because "we ought to have the opportunity to stand on our own."

Hunger and Narcotics, lean panels with popular chairmen, may fare better in a floor vote than the more costly Aging and Children, Youth, and Families Committees, which also appear to be in disarray.

The Narcotics and Hunger annual budgets are both under $735,000, while Aging spends $1.5 million a year. Children, Youth, and Families spends nearly $800,000 a year.

"Some Members have said to me they like one select but not the other, and they'd prefer" to have separate votes, Hall said.

Aging has a special problem: no chairman. Rep. Ed Roybal (D-Calif), who headed the panel last year, has retired, and Speaker Tom Foley (D-Wash) has yet to choose a replacement. Reps. Hughes and Marilyn Lloyd (D-Tenn), both original members of the 18-year-old committee who entered Congress at the same time, are vying for the job.

And partisan bickering over staff marred the presentation Thursday by Children, Youth, and Families. The panel's ranking member, Rep. Frank Wolf (R-Va), angrily accused the panel's chair, Rep. Pat Schroeder (D-Colo), of shortchanging the minority.

Between 1991 and 1992 funding for Children, Youth, and Families remained level, but the minority suffered a $20,000 reduction in its allocation while majority staff received Christmas bonuses, Wolf said. Also, Wolf charged, the minority was denied funds for a year to hire a staff director because Schroeder wanted revenge for a provision in the Republicans' alternative rules package that would have eliminated all selects.

Although Schroeder did not dispute the funding disparities, she denied conspiring against the minority. She said she was hamstrung because she took over from Chairman George Miller (D-Calif) in the middle of the 102nd Congress. Miller left to fill the chair of Rep. Mo Udall (D-Ariz) on Interior and Insular Affairs.

Schroeder said she "hired no one and fired no one" when she became chair of the committee in March 1991, and "I heard no complaints at the time."

She said, "Some people want to make this a personal thing against me" and pleaded with critics not to "attack Children, Youth, and Families because of me."

Another minority member of the panel, Rep. Bill Barrett (R-Neb), said he would not support authorizing the committee for another year. His words—a sharp contrast with Republican members of the other selects who spoke passionately in defense of their committees—signaled more trouble for Children, Youth, and Families.

In the end, the votes this week on the authorization resolutions will probably split along party lines, allowing the four selects to survive another Congress. But some Democratic Members and staffers say there is a possibility that the 67-member Aging Committee and Children, Youth, and Families could be rejected.

Rep. Louise Slaughter (D-NY), who sits on Rules and chairs the OSR committee has tried to speed the selects' demise, said the vote could be close, in part because of the unpredictability of freshmen of both parties.

Many of the 63 new Democrats and 47 new Republicans were elected on platforms of reforming Congress, and, they lack attachments to select committees on which they've never served.

TWO MEASURES WHICH SHOULD BE TOP PRIORITIES FOR THE 103D CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, less than a week ago on this very same plot of ground we call Capitol Hill, a few feet away from where I am standing, a new President was inaugurated, a new era of American history was entered as an old era ended. Not just the wonderful, warm, and beautiful day itself, which augured good things to come, but the statements of President Clinton in those brief 14 minutes really hit each and every one of us gathered on that beautiful terrace looking down toward the Washington Monument and to the other great monuments of this American Capital.

I think all of us, Democrat and Republican, wish for the new President health and great success, because as his success is achieved then our successes are achieved. We are better if he does better.

It is in that setting that I would offer two measures that I hope will be on the President's agenda for early action in the 103d Congress.

We hear a great deal, and we should, about the economic development, about job creation, about lessening the heavy debt of the Nation, about cutting its deficit and reorganizing its procedures to make government more efficient.

□ 1230

We do not hear quite as much as I wish we did about campaign reform nor do we hear nearly enough about making American cities safer, at least in part, by reducing the armaments which wind up in the hands of people who are on the streets and in our schools and in our shopping centers and everywhere. In effect, too many handguns are loose in America, and there is too much violence and death as a result.

So I would ask President Clinton to remember back during the campaign when he said that campaign reform was a priority issue and to recall that during the course of his inaugural speech he said he wanted to give the Capitol back to the people to whom it belonged, which is we, all of us, collectively as American citizens, and I hope that a campaign reform bill is sent up here and sent up early, and I hope that it is a very stern bill. I hope it is not just a cosmetic effort at changing the way Members of Congress are elected.

For my part, I believe there ought not to be political action committees at all, but certainly if there are to be political action committees, their influence on the political process ought to be lessened by reducing how much money they can contribute to campaigns. I say that from the experience myself of not having taken political action funds for the election cycle of 1990 and the election cycle of 1992.

I further think we ought to limit the amount of individual contributions in order to reduce total spending. There is too much money being spent today in political races at the Federal level.

I saw a statistic that 10 years ago we might have had five or six races in the entire House which consumed $1 million. In 1992, 100 races in the House of Representatives consumed $1 million. That is an obscene amount of money.

So, I would certainly ask President Clinton to send us up a good, tight bill which limits spending, reduces the influence of PAC's, if not eliminates them, gets rid of money bundling, gets rid of the soft-money excesses.

Then I would like to see a good, solid Brady bill, named after Jim Brady and his wife Sarah, a Brady bill with a 7-day waiting period before handguns can be transferred. Those two items collectively could get this administration off to a fast start. I hope we have that opportunity in the early spring to pass campaign reform and a Brady bill.

FAREWELL TO CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GRADISON] is recognized for 5 minutes.

Mr. GRADISON. Mr. Speaker, on January 11, 1993, I released the following statement in Cincinnati, OH concerning my resignation from the House:

I have accepted the position of President of the Health Insurance Association of America and, as a result, will be resigning from Congress on the last day of January.

The most difficult part of this decision for me is severing the ties with my constituents whom I have represented since 1961, first in Cincinnati City Council, and for 18 years in the House of Representatives. Serving in the House has been a boyhood dream come true. And by good fortune, my committee assignments have involved issues I am most keen about: health, tax, budget, and trade.

There are so many I want to thank: Heather and my children—all nine of them—who have put up with my uncertain hours and life in a fishbowl; my constituents who made it possible for me to serve; the best and most professional staff a Member could hope to have; campaign workers and contributors who believed in me; my associates at Gradison & Co. who, early in my political career, gave me the flexibility to have a hand in business and government at the same time; and the Republican Party, home to my father and me for a combined total of almost 50 years in elective office.

There are no limits to what can be accomplished by a free people and a representative government. I will always be grateful for the chance to play a part.

I feel a sense of accomplishment for helping achieve lasting improvements in tax legislation, especially indexing of the individual exemption and brackets, which has protected middle-income families against automatic, unvoted, inflation-induced tax increases, and in health care, especially programs for the elderly and disabled. Certainly my work on the hospice program has been especially meaningful to me.

My decision to leave the House is largely to try my hand at something new. Happily, my new position will provide an opportunity to work on health care reform, one of the most difficult and most important issues challenging the Nation.

UPDATE ON BNL INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last week on Thursday, January 21, I spoke out on the Banking Committee's continuing and sustained investigation and consideration, evaluation, and formulation, more importantly, of legislation that is more than needed.

It is distressingly needed, and has been for many years, by this country to protect its basic financial and monetary independence, liberty, and freedom, which has eroded to the point of critical problem or danger, exemplified by the scandals that popularly have been known as the BNL or the Italian bank and its agency branch in Atlanta, GA, and the BCCI, all of which, of course, after their luminous and headlined announcements and crudities have disappeared and are temporarily out of focus and out of the attention.

The continuing need though is greater than ever that those of us charged with the responsibility of formulating the policies and the laws to implement those policies, to provide the proper protection of the national interest in its most vital sector known as the financial, monetary, and, consequently, the fiscal.

Outside of the context of this world of legislative action, the people have no way of knowing what is really going on, though let me say by way of parentheses that I find the people to be intuitively far more ahead than their political leaders than is given them credit. But be that as it might, the information that is vital in a democracy where we are struggling mightier than ever in our history to retain the basic concept of our ability to govern ourselves, that the body politic and the people be informed. The only way they can be is if their representatives, their agents, whether it be the President and Vice President, or most of all, the policy-making body known as the Congress and, more particularly, the fundamental constitutional body that was shaped, destined, and intended to be as close as humanly possible to the people electing the Members of the policy-making body known as the U.S. Congress.

I have repeated ad nauseam that the importance of this body is reflected from the very initial beginning of our Nation and particularly in the Constitution, but even before the Constitution. Our first corporate activity as a nation was the Continental Congresses, the First and the Second, and the people of that day and its leaders thought so little of such an office as an executive or a President, as we call them now, in that day and time they used to use the phrase "chief magistrate;" they thought so little that for 10 years of that formative period of the Nation they did not bother to have such a kind of office, but they did have a Congress composed of delegates from each one of the 13 Colonies, later States. So when the Constitution was formulated, the Congress forms article I of the Constitution, not the executive branch, not the Presidency, but the Congress, and the House of Representatives after much debate and by one vote, the assemblage in the Constitutional Convention decided that these persons elected as agents of the people would have 2-year terms; by one vote, the 2-year term won out. The 3-year term had been advanced, but the reason was that they wanted this particular office to be a prime constitutional office in the sense that it would be the only one that the people could have any kind of a control or direct relationship with and to.

The U.S. Senators at the time were not elected directly by the people. It was not until the constitutional amendment in 1913 that provided for the direct popular election of U.S. Senators, but they were, first, appointed by three-fourths of the State legislatures, and those sole appointees were wealthy. They came from the affluent or the wealthy economic classes of our country.

But the only proviso that to this day exists as to the eligibility to be electable to the U.S. House is to be 25 years of age and a citizen of the State. That is all. It does not provide that you should be learned, even knowing how to sign your name. It does not say you have to have a high school or a college education. It says all you have to be is 25 years of age and a citizen of the State, not even the district. Anybody in any State can file for any district to the U.S. Congress in that State.

□ 1240

And then the districts would be apportioned in accordance with the population.

Nobody can come to the U.S. House of Representatives by appointment. The only way you can get here is to be elected, unlike the U.S. Senate. This is a difference that has been obscured and lost sight of.

We are living in a critical time in which ironically fate has decreed that we in our time and generation shall prove whether or not we will uphold and sustain and transmit to our posterity those institutions based on the Constitution. They have been, ironically, right on the eve of our 200th anniversary, at great test, for we now have—and it is taken for granted in and out of the Congress and among the populace—that the executive branch is omnisicient. The President can declare a war by just simply entering into a war without any declaration from the Congress. What passes for approval is a debate on whether or not the Members are going to be loyal to the President or not on the decisions he has already made.

This is not sudden and it is not one that has been grasped by an ambitious, overly ambitious President; it is one the Congress has abdicated. And that happened since World War II.

As a matter of fact, we have been living from states of emergency declared by executive decree since the 1903's—the middle 1930's—and the Depression emergency decrees.

When you stop to look at it from that standpoint, it is awesome and it is clear and beyond any rebuttal that our system has amorphoused, has changed, has transformed almost imperceptibly.

What has been happening since 1945 would not have happened before 1945 in this Congress. In vain, during the 1960's I would get up here and I would make speeches in special order, with no TV—you did not even have to come to the floor, you could have written it out and it would have been printed—but I thought, knowing the history of special orders, so-called—we call them that now—that that was not the intended purpose and the idea was to take advantage of this privilege in this great body to extend on a matter pertinent to legislation that affected that individual Member so much that he wanted to enlarge and would not have the chance during the limited debate—

which was necessary in order to control the movement of things in a multiple body such as a U.S. House of Representatives—and I thought any departure from that would be an abuse. And I have stuck to it.

One week after I have been sworn in 32 years ago, almost, I took my first special order, and have since then.

So I did it because it was my way of communicating through the RECORD—which incidentally used to be read quite a bit by Members at the time—and I have never regretted it even though I have had more criticism than I have had approval. I am pointing this out because during the 1960's, though I had felt that way since before ever I had been in the U.S. House of Representatives, about the Korean war and President Truman. I felt if we had reached a point where the President could conscript, compel an unwilling American to go outside, order him outside the continental United States and go fight in a war not declared by Congress or explicitly provided so by the Congress, that we did no longer have a Constitution, we did not have a President, we had a potentate; and that, ironically, the very thing that had led the original colonizers and freedom seekers from the mother country and other European countries, escaping the king-made wars, the kaiser-made wars, the czars-made wars, the King of Spain-made wars, came to America. And here, full circle, we have gone into twilight, or Presidential, wars, but all of it through the abdication of Congress through the delegation of power to the President going back to 1917 and the Espionage Act, and which powers most have not been retrieved by the Congress.

So that since then Presidents have made use of that residual implied power through, and going back to the Espionage Act of 1917, to declare an emergency.

If my colleagues will sit here long enough, there will soon be a message coming up—unless the President changes it, I do not know—somewhere around May you will get a message from the President, and it may be several messages, but one of them will say, "This is to advise the Congress that I have extended the emergency," whether it is the one in the gulf or the one resorted to, believe it or not, and where we are now enmeshed in the African continent or Nicaragua. Any Member, had he listened here since 1985, on May 1, every May, President Reagan would send a message saying, "I have extended the emergency proclamation whereby I am imposing an embargo." The President does not have that power under the Constitution, but the Congress can delegate it.

Now, the big mistake I see—and I am not a constitutional expert—is that there are, and I think anybody who reads the debates of the Constitutional Convention will agree that there are, certain powers that are not delegable, they are nondelegable, that the Congress has.

So I spoke out here during the 1960's what I had said pretty much to a local level during the Korean war, and I pointed out that imperceptibly this country was going to face a grave crisis sooner or later because we had come from a hot shooting war in which the Congress had declared a state of war and Presidents have followed through with their delegated powers, and drafted and conscripted. Then the hot shooting phase of World War II ended, although formally it has not—there is no peace treaty yet. You had a lot of exceptions, naturally. You would go from a hot shooting phase, like World War II, into a so-called peaceful era, and then the eruption of hostilities in 1950 and the reimposition of the draft with a bunch of exemptions. So, suddenly, some were and some were not.

Now, how could anybody, rationally thinking, expect anything than what happened 16 years later in the great divisive period of the riots in our cities and the demonstrations and the draft protesters and the so-called draft dodgers flying or going to Canada. So today we have pretty much the same thing happening, and we have had. We had a buildup through neglect, again almost imperceptibly, of an institutional system that had been created before the war, mostly during the 1930's, such as the S&L's, the savings and loans, the FHA, the deposit insurance system. All of those were created in about 2 years, 1933 and 1934, and they were addressing the issues of that day in a society that I cannot evoke to my colleagues. There is no way you can evoke the smells, the sounds, the agitation, the fears, the hopes of a past age, especially the 1930's.

□ 1250

But I am old enough to remember vividly, I am a depression era kid, and that is why I speak out because after the war, with tremendous societal as well as technological changes, that structure that had been constructed during the thirties could not long last. The rigidity of the 50 different banking regulatory systems, the dual banking system so unique to our country, the discovery or the invention of instantaneous electronic communication, naturally the State borders were going to erode.

So today we are living in a tremendous period of transition that has been in the making, not suddenly. The S&L crisis that agitated everybody just 2 or 3 years ago had been in the making for 30 years. In my special orders I will refer any interested colleague to look them up.

I was anticipating this since 1966 when we had what was then for the first labeled a credit crunch, when the prime interest rate was jacked up overnight on June 19, 1966, 1 whole percentage point. That had never happened at any time before. Today that has no relevance. You have several definitions of prime interest rates, and we live in a full Orwellian world where banks report profits when they are losing, where through the artifact of accounting the true condition is not established.

Well, we have been doing our best on the Banking Committee. Last week on Thursday I said that I was sure that we might and could look confidently to a new period of a recognition of the fine constitutional issues involved between the Congress and the Presidency with respect to the Congress being able to know, to be informed. That is one of its prime powers still left, in order to legislate knowledgeably, which means the people to know and be charged with knowledge.

If you have no debate, if you do not have the heat of the conflict of ideas, and particularly in a deliberative body as this is supposed to be and if you have meetings in the secrecy of hideaways and decisions taken there, and then it is compounded by the secret basement discussions in the regulatory bodies over in the executive branch, the people cannot know. It is only when you have the clash of ideas and when you have full and free and open debate that you know what something is about and the press can report it. We can blame the press all we want to, but if they are not privy to these meetings in and out of the Congress, in and out of the White House, how can they know and report?

Now, it is true that there is a concentration in that area that is now confronting us in banking. We are beginning to see a period in which more and more bank merging power is going to reduce a tremendous control of the credit granting power in a society to fewer and fewer large, or what they call nowadays in the fancy word, megabanks.

So when I said I was going to appeal to President Clinton to provide the documents that the Committee on Banking had subpoenaed last year and the year before last and adamantly refused by the past administration, I then proceeded to write a letter to the President, which I will at this point pursuant to my special order and the terms thereof place in the RECORD at this point:

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, January 22, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: For the past two and one-half years, the House Banking Committee has been investigating the activities of the Atlanta branch of Banca Nazionale del Lavoro (BNL) and the Bush Administration's pre-war policy toward Iraq. Over the course

of the investigation, the Committee made numerous requests for information from the White House, State Department, Justice Department, Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, Treasury Department, Defense Department, Commerce Department, and the U.S. Customs Service.

At the direction of the White House, each of these agencies refused to turn over classified documents to the Banking Committee, charging that I had harmed the national security by placing a limited number of classified documents related to the Bush Administration's pre-war policy toward Iraq into the Congressional Record. However, on numerous occasions I asked the president and various Cabinet Secretaries to explain how documents that I had placed in the Congressional Record harmed the national security. For obvious reasons, I never received a reply. I can only conclude that the national security argument was solely intended to rationalize the denial of information that would embarrass the former Administration.

I am wholly committed to the principle that the citizens of this nation have the right to know how and why their government decided to assist Saddam Hussein, regardless of the embarrassment it may cause the persons that made such decisions. I am confident that you share this belief.

Accordingly, I respectfully ask that you take a personal interest in ensuring that the Banking Committee's investigation receives the utmost cooperation from the executive branch. Specifically, I ask that the White House and other executive branch agencies be required to immediately turn over all documents heretofore denied to the Banking Committee.

Mr. President, with your assistance, we can provide the people of this nation with the opportunity to learn the full truth about the BNL scandal and the Bush Administration's pre-war policy toward Iraq. A full airing of these issues will allow us to avoid future abuses to our banking system and will permit us to learn from the tragic mistakes that led to our current entanglement with Iraq.

Thank you for your time and consideration.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

For the sake of my colleagues who may be hearing me on the closed circuit, let me just read the opening paragraph. I am addressing it to the President:

For the past 2½ years the House Banking Committee has been investigating the activities of the Atlanta Branch of the Banca Nacionale del Lavoro and the Bush Administration's pre-war policy towards Iraq. Over the course of the investigation the Committee made numerous requests for information from the White House, the State Department, the Justice Department, the Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, Treasury Department, Defense Department, Commerce Department, and the U.S. Customs Service. At the direction of the White House, each of these Agencies refused to turn over classified documents to the Banking Committee, charging that I had harmed the national security by placing a limited number of classified documents relating to the Bush Administration's pre-war policy towards Iraq into the CONGRESSIONAL RECORD. However, on numerous occasions, I asked the President and various Cabinet Secretaries to explain how the document that I had placed in the CONGRESSIONAL RECORD harmed the national security.

Let me interrupt and say parenthetically that just week before last before the administrators were going out, I sent each one of them a letter again asking them to tell me wherein I had invaded any kind of national security area. I am still waiting for an answer, just like I did when the CIA Director wrote last May. I asked him then, never heard from him, obviously because there was no violation.

I think I know the difference between what is secure national interest and what is not. Particularly I am well versed in the history of the congressional prerogatives and powers in that respect and the Supreme Court decisions implementing them, without any question and forcibly this right of the Congress to know.

So I just wanted to mention that to this day nobody has given any kind of an answer.

As a matter of fact, let me continue to add parenthetically, the only one who tried to tell the immediate past Attorney General that they were wrong, and when ordered to write a similar letter to me refused, was the FBI Director, the Honorable William Sessions, who Mr. Barr furiously when he refused to investigate the CIA because of the uproar in Atlanta immediately came out with the most outlandish, unbelievable smear and character assassination of any man I have seen.

It so happens that I know Judge William Sessions, the Director of the FBI. He comes from my area. He had served with great honor and distinction. He is a man of integrity, complete total integrity.

I could not believe when Attorney General Barr came out and said he was going to look into and charge the Director with criminal culpability, as well as other culpability.

I then came out and said it was character assassination. It was abusive and that the real reason was that the FBI Director, knowing the law, was not going to be involved as the CIA Director had been and the other aparatchiks had been of the administration in trying to intimidate me.

When I came out with that, 24 hours later the Attorney General said no, he had exceeded himself. He did not mean that he was going to charge any kind of criminality, but they were looking into some acts of misbehavior about the improper use of an FBI airplane.

Well, let me assure my colleagues, if there is any man that I have ever gotten to know publicly, that is as a public official, who is a man of total and complete integrity, it is Judge William S. Sessions.

□ 1300

And I hope he stays in there and fights this outrageous attack and attempted assassination of his character.

I am also intending to try to communicate with the President to state these facts to him, too, because, unless Judge Sessions caves in, it will take Presidential action.

So, I will continue:

However, Mr. President, on numerous occasions I asked the President and various Cabinet Secretaries to explain how these documents that I had placed in the CONGRESSIONAL RECORD will harm national security, and of course, for obvious reasons, I have never received a reply.

I am wholly committed to the principle that the citizens of this Nation have the right to know how and why their Government decided to assist Saddam Hussein regardless of the embarrassment it may cause the persons who made such decisions and, particularly, in view of the fact that we had gone to war on the orders of the very same individuals who had aided and abetted Saddam Hussein.

I am confident that you share this belief. Accordingly, I respectfully ask that you take a personal interest in ensuring that the Banking Committee's investigation receive the utmost cooperation from the executive branch. Specifically, I ask that the White House and other executive branch agencies be required to immediately turn over all documents heretofore denied to the Banking Committee.

Mr. President, with your assistance we can provide the people of this Nation with the opportunity to learn the full truth about the BNL scandal, the Bush administration's prewar policy toward Iraq. A full airing of these issues will allow us to avoid future abuses in our banking system and will permit us to learn from the tragic mistakes that led to our curious entitlement over Iraq.

Mr. Speaker, that is the end of my letter, but let me add that I am interested in one thing, and that is to forge and shape the legislation that we must have.

Now that is easier said than done, and it will be most difficult, because once these financial institutions of great, great power have gotten used to having almost $1,000,000,000,000 of this foreign money unregulated or unchecked by any Federal agency, Federal Reserve Board, or, much less, the State banking commissions, it will be hard to say, "Hey, most of this is going to the illicit drug laundering money operations in this country."

Do any of my colleagues believe that the size, the magnitude, and the challenge to our society because of the illicit drug traffic is not connected and protected all through, from the highest levels to the lowest and between the criminal element and business and gov-

ernment? Despite all of the wars on drugs and crimes we are no better off today. Why?

One of the essential things is to plug the most vital port, which is the monetary profits from this activity that now poses a very dangerous situation to our society. There are collateral—not so much collateral—but there are other attendant activities that we are going to look into as soon as we have the ability.

I must remind my colleagues that our committee does not receive the funding that even other committees do, but I do not believe in having excess staff. We have a hard-hitting, but we have a counted and limited staff.

But I want to go into the so-called overseas over which we do not have any control, not only in the Caribbean, the Cayman Islands, but all over the world now, in which that has become not only a haven for tax dodgers from the United States, huge financial and corporate interests that are cheating the Treasury, but the main thing is that, as long as our authorities do not have any kind of a control as it impacts the United States, there is no way that our so-called central bank, the Federal Reserve, can construct the proper monetary policy for our country.

Then I would like to go on record, as I promised the day after I was first elected chairman of this committee, on January 5, 1989, when I came before my colleagues and I said that I would keep them informed regularly, and I have done that as to the activities of this committee, on what I, as a chairman with the only power I have ever requested—I have not been one of those who want to recuperate power and want to be chairman of the full committee and chairman of the next most powerful subcommittee because I do not believe in that. But I do believe in producing, and I think the record shows, what has happened since 1989.

I think the record also shows the intensity of the activity as compared to the previous 25 years of the actions of this committee, and I appeal to the record on that, but I promised that I would keep my colleagues up to date and also I remind them that I am the chairman of the Subcommittee on Housing and Community Development of which I have been chairman since 1981, and in passing I tell my colleagues some of the things that we are going to have to confront, some of which have been, during an election year, shoved under the rug. But we cannot escape them.

The bank insurance fund is broke. The SAIF, the new name for the S&L insurance fund, is broke. And what taxpayer bailout, so called? Now they are not bailouts because the deposit insurance system is supposed to protect the depositor. But I have been pointing out for the last 25 to 26 years that it has so degenerated and has become so corrupt that it does not even serve the full legislative purpose that the Congress, through statute, has set out as a purpose of the deposit insurance system. I pointed that out ad infinitum, or some say ad nauseam, since 1979, the impossibilities of even the simple arithmetic of it.

For example, Mr. Speaker, the Congress has never, never approved paying out, in the case of having to do so, more than the insured amount, but that has not been happening since 1984, and Chairman Volcker announced the edict of too big to fail in the case of the Continental Illinois where it took $6 billion. Nobody noticed that the Federal Reserve infused that bank with that. I could not get a hearing from the chairman then. I was not chairman. But we have had some hearings since then, and we had a modicum of reform in the 1991 act in which we have spelled out and the regulators have pretty much complied, but it will not come to full bloom until this next year to prevent the payout of more than that insured amount.

The simple arithmetic will show my colleagues that we have over $3.3 trillion worth of insured deposits in the commercial banking system alone. That does not take in the S&L, does not take in the credit union fund; just commercial banks, $3.3-plus trillion in insured deposits. And we have a broke insurance fund. Does that show much about what we have as a so-called deposit insurance system?

□ 1310

It was not until I got the staff the first year I became chairman to bring out the facts and show that the regulators, as I said, not pursuant to law, were paying out over 98 percent of their payouts to noninsured, that is, to those who had more than $100,000, those that had multi-million-dollar accounts in banks.

The law was never intended for them. The original concept was that that little depositor who would have as much as $2,500 would be protected in the case of an insolvent banking institution. Then through the years that was jacked up. I have already explained on previous occasions how feeble it became when it was jacked up from $40,000 to $100,000 overnight in 15 minutes here on the House floor, with only my voice protesting.

So that is history. What do we do about it now? Well, we have I think paramount the funding question which the Congress and the House refused to bring about last April and until the end of the session, what the needed amounts for the Resolution Trust Corporation are to close out the insolvent S&L's that are there to be closed out.

They have gone into these costly so-called conservatorships that keep these dead things alive with a daily infusion or a cost eventually to the taxpayer of over $6 million or more a day.

But it was an election year, remember. I was left as the only one saying hey, we ought to go ahead, if they are closing down those that they ought to. That is what the law says. Close down and pay out, but not over that $100,000. We have got to revisit that because that is the condition we face.

The Resolution Trust Corporation was established in 1989 to resolve the S&L problem. We worked mightily and did something that had not been done before. We provided in 8 months of legislation, or the equivalent thereof, that which it took two Congresses and four different bills in the 1930's to bring about.

However, we said at the time that there were bound to be discrepancies, that we are, after all, human, and we have our limitations.

I thought one big mistake was to bring the FDIC in, which is the Argonne and had been of the commercial banking system on insurance, to do the administrative work of closing out these S&L's. I thought it was a mistake then, and it was not until last year that we reformed that. But look how long it took. The administration was against it, our conferees when we had the conference on that bill in the Senate were against it. I was able to get our committee, but we lost out.

So that was set up. It was initially provided with $50 billion in the Financial Institutions Reform Recovery Enforcement Act of 1989. It received an additional $30 billion in March 1991. An additional $25 billion was provided in December 1991, with an April 1992 cutoff, which cut it off in the House and the Congress, though the Senate never did approve that which had already been appropriated because it was an election year and RTC is unpopular.

The SAIF fund, after September 1993, that is this September, the cost of resolving insolvent savings associations will be borne by the savings association insurance fund. SAIF has not been funded by the Bush administration. It has virtually a zero net worth. In other words, it is insolvent.

SAIF funding should be included in the RTC funding to ensure that additional amounts are not needed down the road. Current estimates of how much is needed to complete the savings association resolution process varied depending on who was talking. However, the best estimate of how much is needed for the RTC and the SAIF is somewhere between $30 to $45 billion.

As I say, to me it will be far more than that. But this is the best you can get from the people that are supposed to know and be the experts. They are guessing the range, $30 to $45 billion.

Well, it all depends. But if the statistics given us all last year and the year before are anywhere near valid, I estimated through my own computations

the range of assets involved. Given that range, I will say it will take more than that. Nevertheless, let us hope I am wrong.

There are other bits of legislation that I will not bore you with that will actually come out of other subcommittees, but I think are essential for the public interest, such as fair credit reporting, which we lost by three votes in the House last year. We intend to pursue that, even though it will come out of the Subcommittee on Consumer Affairs and Coinage, and we will stand behind that.

On interstate banking and branching, we reported comprehensive legislation on June 28, 1992.

The majority decides in my case. No matter how I feel, and on one or two of these issues I did not vote for them, but the majority did, so we passed it out. It was very comprehensive legislation. It was the first time the committee faced face-to-face the issues that had been burgeoning out since 1945.

Interstate banking permitting the bank holding companies to own banks in several States is currently accomplished through the regional compacts. That is, not through legislation. Legislation to impose conditions on interstate banking is what the issue has been and will be this year again.

Interstate branching would permit a bank to branch nationwide. The question of whether this should be permitted, and, if so, what conditions should be imposed, remains contentious.

You have multiple interests. You have insurance, real estate, and what not that want to get banks involved. However, the reality is, as I said earlier, with the advent of instantaneous electronic communication, the interstate borders have eroded pretty much and you have to face the fact that either through a court decision, or in the case of big banks through the interpretation of the Federal Reserve Board of section 20 of the Bank Holding Act, they have a lot of power in that respect now, as well as going into the risky business of investments and securities, or stock, as you call it. Interstate branching would permit both.

As I said, the question is under what conditions. Only the national policymaking body known as the Congress should determine this. However, in view that a vacuum has been created, and in politics as in nature vacuums are abhorred, what has come in has been the courts or the regulators. But they are not policymaking organs of our Government. So these things are jerrybuilt and will collapse at the first crisis.

I introduced the reform bill for the deposit insurance system that I had just described briefly a while ago. But you would think that I had antagonized every one of the banking interests, and particularly the so-called Independent Bankers Association of America. But all the banking interests had also fought us on brokered deposits and on the so-called junk bonds. You do not hear of that now, but we were fought hard.

□ 1320

Any time you have a trillion dollars on that table, you are going to have a lot of argument and a lot of other things happen. So I intend to reintroduce my Deposit Insurance Reform Act. Maybe, if we can get some help from the administration, we might get some long overdue reform.

Then, as a matter of last, I have just forwarded another letter to President Clinton with respect to an effort that I have also been making, and again it goes in an individual capacity, it goes back to some 28 years ago. It was obvious to me that the day would come where our Nation has no antiusury or interest rate control. That was lost in the National Currency Act of 1865. It was right at the end of the Civil War.

This was what was on the mind of President Lincoln more than anything else. He could see the forces that were coming in and taking over, as they always are. I do not care whether you are in war or whether you are in peace, you have these interests in every society and have had them since there were human records, that are going to be thriving and acting as a sort of a human predatory species.

At the beginning of the founding of our Nation, I mentioned earlier the First and Second Continental Congresses, that was the big issue. And it turned out to be the great conflict between the Hamiltonin and the Jeffersonian, which through time has been inaccurately described on occasions. You do have some beautiful historians that have recorded historically and factually, and you can see what the issue was. But there was no question, everybody and every government has to have a banker or what they call, the fancy word, fiscal agent. Incidentally, and by way of parentheses, that is what the Federal Reserve Board Act of 1913 says the Federal Reserve Board is supposed to be. It is supposed to be the fiscal agent of the U.S. Treasury. But it is the other way around now. It is the one that is coining and printing our bills, not Treasury.

When I came to the Congress, 32 years ago, I could reach into my pocket, pull out a $1, $5, $10 bill and about 3 out of 5 would say U.S. Treasury note.

Well, today all you see is Federal Reserve note. But what is the Federal Reserve? Is it a Government agency? No. It is not. It is a creature of the commercial banks who compose it. And it has gotten so almighty and powerful, independent is the word they use, that Congress that created it has no control over it.

The President, who appoints the Board members, has some kind of control, but it is only residual and indirect. So that with that condition and the Treasury now in a reverse role and the Federal Reserve Board in secret formulating the policies that are going to determine how much interest you pay, what your standard of living is going to be, who is going to have a job and who is not.

That was fine, but I had about 6 out of 9 or 10 Federal Reserve chairmen that have come before the committee since I have been a member. And they would all tell us, until just 5 years ago, 4 years ago, "We have no control over interest rates. You, the Congress, if you weren't profligate and if you would have more control over your budgetary, why that would be the best control of interest rates. We don't have anything to do with it."

Now, all of a sudden, they admit they have all the control of it. Of course, everybody knew that even then. But nobody wants to, I do not know what, to rock the boat or challenge or anything.

Now, we are the only country in the industrialized world that handles our monetary and fiscal affairs the way we do. It is not very good. From the greatest interest of the greatest number. If the commercial banks are the ones who own and control and dictate the policies of the Federal Reserve Board, when it comes to a shove or push as to what is to the best interests of the banker or the people, I will give you 1 of 3 guesses which you think will happen.

Now, a regulatory system which also goes back to that 1865 act, first, it eliminated the interest caps that had been national law since Jefferson, and not only the Bank of North America of the first Continental Congresses, when the Continental Congress said, "Well, we have got the ball rolling. We have the issue, but we need the banker."

The bankers of Philadelphia came and said, "All right, but you have to pay this much."

Jefferson said, "No, we are not."

And let me say something. Even Hamilton.

So they finally made them limit to no more than 6 percent, but do not think they would not have loaded it up if they could have.

So then came the Constitution and the formulation of the Bank of the United States, where Alexander Hamilton did brilliant work. He took a country that was in extreme debt. He took a government that said, "We will assume the debts of the States in the Revolutionary War," and had no money. And he worked a beautiful system that did work.

In fact, it enabled us to proceed fairly successfully until the late 20th century, basically.

Then, when we got away, not in the way that is described by the people

who would like to blame profligacy or welfare state, but by the very people that are not content with being the most privileged and powerful individuals in our society. For a banker creates money. He creates credit, and that was the issue from the very first. Who is going to control the allocation of credit in our society? That is the whole question, the long and short of it.

Now, if you are going to get power, how are you going to protect the people? Through regulation. But if the regulators or the regulations are farce, you have no protection for the people's interests.

The Office of Comptroller of the Currency is one of the main basic regulatory bodies over banks, but the Congress does not appropriate for it. It is independent. It gets it operating costs from the fees that the bankers pay to be examined. So they have always been a kind of an independent kind of feisty group.

I have had one, in fact he was a fellow Texan that was Comptroller that came and told our chairman, he said, "I don't have to obey you. You don't pay. We don't have any appropriated funds. The fees the bank pays for examination, that is what keeps us going, so we don't have to. I am here at my sufferance, not because you commended me to be here."

I was there. So the people have no protection.

What I tell the bankers when they say, "Oh, you are a populist." I do not know what that means. If a populist means to be a liberal, of course; if a liberal means what the World Dictionary means, and that is a friend of the people, absolutely. They are the ones that elect me.

□ 1330

I want to be their friend because I have a trust, and I maintain that trust. They have entrusted me. I will keep faith with them. That is it. It is no more complicated than that.

In fact, I will remind my colleagues that those of us in this great American democracy that have been entrusted on our judgment day will have only one question to answer, and none other, and that is, were you for the people or were you against the people? That is all, nothing more, nothing less. That is what the shooting is all about, but you would not recognize it nowadays.

In this letter to President Clinton I asked him to help with another reform that I have been espousing for years, and that is reform of our regulatory system. We have the OCC, the Office of the Comptroller of the Currency, that goes back to 1865. Then we have the Federal Reserve Board that wants to be our central bank, setting the monetary policy and the related policies that only a central bank does in any country, and at the same time a regulator. I said, "You cannot serve two masters faithfully and well. Either you are one or you are the other." The Office of the Comptroller of the Currency is under the Secretary of Treasury. That is a political office, so it is not immune from political pressures. Then we have the FDIC and we have the others.

Therefore, we find these agencies sometimes fighting for turf, overlapping, but none doing the job that late 20th century America demands and will have, and if it won't, it is doomed, let me tell you that.

It sounds ironic, as we are reaching the end not only of a century but of a whole thousand-year period, that we would be looking back at one of the bloodiest and dreariest centuries for mankind in its history, and looking into the 21st century with not much more unless we change.

America, facing a reversion, ironically, and I have said this several times, we have gone back to the mercantile system we were in during the colonial period up until 1914, when we for the first time became a creditor nation.

In 1985, on September 16, the Department of Commerce announced that the United States was again a debtor nation for the first time since 1914.

Mr. Speaker, for the record I include a memorandum related to these subjects:

To: Member House Banking Committee.
From: House Banking Committee Staff.
Date: January 25, 1993.
Subject: Banking Committee—1993 Issues.

This memorandum briefly outlines major issues the Banking Committee addressed in the 102nd Congress and is likely to address in the 103rd Congress.

A. FUNDING THE THRIFT RESOLUTION PROCESS AND THE DEPOSIT INSURANCE FUNDS

The Resolution Trust Corporation (RTC) was established in 1989 to resolve all savings associations which are declared insolvent through September 30, 1993; the RTC itself will terminate not later than December 31, 1996. The bulk of the RTC's work after September 30, 1993 will be asset disposition and closing out receiverships.

The Resolution Trust Corporation (RTC) was initially provided with $50 billion in the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The RTC received an additional $30 billion in March, 1991 and an additional $25 billion was provided in December, 1991 with an April, 1992 cut off date for using the funds. The RTC was able to use only $7 billion of the $25 billion. Last year, the RTC requested a total of $43 billion, composed of $25 billion of new money plus the remaining $18 billion that would be freed by lifting the April date cap. That funding request was approved by the Banking Committee but rejected by the House. Consequently, the RTC has been operating without funds since April, 1992; since that date, the RTC has been able to place institutions into conservatorship but not resolve them.

SAIF—After September 1993, the cost of resolving insolvent savings associations will be borne by the Savings Association Insurance Funds (SAIF). The SAIF has not been funded by the Bush Administration; it has virtually a zero net worth. SAIF funding should be included in RTC funding to ensure that additional amounts are not needed down the road.

Current estimates of how much is needed to complete the savings association resolution process vary widely. The best guess of how much is needed for the RTC and the SAIF is $30 to $45 billion.

Policy issues surrounding the RTC include asset dispositions—securitization and bulk sales and whether to extend or accelerate the termination date of the RTC.

B. FAIR CREDIT REPORTING ACT

H.R. 3596, introduced last Congress and considered on the House floor, reformed the credit reporting industry in several important aspects: (1) it increased consumer access to credit reports by establishing a toll free number for consumers to communicate with the major credit bureaus, by providing for standardized forms for credit reports, and by capping the costs of consumer reports; (2) it provided for enhanced privacy protection for consumers by limiting target marketing and prescreening; and (3) it enhanced the accuracy of information in credit reports by holding furnishers of information accountable for the quality of information they provide to credit bureaus.

H.R. 3596 was passed by the Subcommittee on Consumer Affairs and Coinage with an amendment to override any related state laws, including those laws that provide stronger consumer protections than the federal standards. That preemption provision was strongly opposed by the consumer advocacy groups and every state attorney general. The preemption provision remained intact at the full committee level, and ultimately remained in the bill during floor consideration by a vote of 203–207. Following the vote, Chairman Torres of the Consumer Affairs Subcommittee pulled the bill and prevented further consideration.

Congressman Torres plans to introduce similar legislation in the 103rd Congress where it is likely to be considered by the Consumer Affairs Subcommittee.

C. INTERSTATE BANKING AND BRANCHING

The Banking Committee reported comprehensive banking legislation in the 102nd Congress which included authority for interstate banking and branching. The legislation was defeated by the House. Legislative proposals to permit interstate banking and branching are likely to be presented to the Committee this year.

Interstate banking—permitting bank holding companies to own banks in several states—is currently accomplished through regional compacts. Legislation to impose conditions on interstate banking may be considered.

Interstate branching would permit a bank to branch nationwide. The questions of whether this should be permitted and, if so, what conditions should be imposed, remain contentious. Policy issues include whether states should be allowed to affirmatively permit (opt in) or affirmatively reject (opt out) interstate branching; how to ensure credit availability to traditionally underserved groups and communities; increased concentration, safety and soundness; and the export of state powers such as bank insurance powers, to other states.

D. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) was the major legislation passed by the Committee in the 102nd Congress. The legislation provided a $30 billion line of credit to the Bank Insurance Fund, which line has not been

drawn on to date, required least cost resolution of failed banks and thrifts, and instituted a system of prompt corrective action. Prompt corrective action is a system of mandatory regulatory interventions designed to ensure that institutions have sufficient capital, that they not be given the opportunity to grow out of problems, and are closed in a timely manner, reducing the losses to the deposit insurance funds.

RENEWING AMERICAN CIVILIZATION

The SPEAKER pro tempore (Mr. KOPETSKI). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk about renewing American civilization. American civilization is decaying and it must be renewed. In Franklin Delano Roosevelt's words, our generation has a rendezvous with destiny, and I believe for our generation that rendezvous is to renew American civilization.

In 1940 the greatest threat to freedom was from Nazi Germany and imperial Japan. Americans rallied and freedom won. In 1946, the greatest threat to freedom was from the Soviet empire. Americans committed themselves to nearly a half century of containment, to maintaining a strong military, and at the end of that time the Soviet empire collapsed and freedom won. My dad spent 24 years in the U.S. Army during that period, clearly seeing his career in defense of freedom.

Today the greatest threat to freedom is here at home. The decay of American civilization is undermining our very capacity to have economic productivity, our capacity to have a decent, safe society here at home, our capacity to project assistance abroad to help other people.

It is impossible for a country in which 12-year-olds have children, in which neighborhoods are dominated by violent gangs, in which drug addiction runs rampant, many schools graduate people who cannot read, and there is a crisis of an AIDS epidemic; in that environment it is impossible in the long run to sustain American civilization.

Yet, the future of freedom is at stake. Without America, there will be more Bosnias, more Somalias, more Iraqs. We are the only country large enough, complex enough, multiracial enough, to truly provide leadership for freedom across the planet. If we weaken, if we lose our will, if we lose our economic strength, if we lose our capacity, there is no one to replace us.

We see grimly already in Sarajevo and Mogadishu, across the planet, the dangers of what will happen if American civilization falters and weakens. Yet, without renewing American civilization here at home we cannot continue to promote and sustain freedom abroad, because power assistance abroad requires a powerful, healthy society and economy here at home.

Yet the objective fact is that American civilization is decaying. This simple statement, American civilization is decaying, will be politically incorrect on many campuses for three reasons. First, it implies there is an American civilization. Second, it implies that civilization takes learning; third, it implies that American civilization is particularly worth learning about.

Let me expand on each of those three. First, American civilization implies that there is an American civilization, yet we are the successor to Western civilization. Western civilization, in many ways, with roots in Greek and Roman culture, coming up through the Judeo-Christian tradition, was a Northwestern European Caucasian civilization. It projected power across the planet beginning around 1500, but in fact, ultimately it was and remained a European phenomenon.

American civilization is quite different. It is continentwide, not simply an area the size of Europe but the size of all America, extending into the Pacific. It is multiracial, not merely caucasian. It has many cultural traditions blended into one unifying civilization.

It is impossible to think of being American without recognizing that, whether it is in our food, in our music, in our clothing, in our history, in our anecdotes, in our movies, again and again, we are a blend from many places into this one magnificent system. We are in fact the most integrating society in the world. Colin Powell, Pat Saike, Henry Bonilla, Jack Kemp, all are Americans, although Americans with different historic backgrounds.

American civilization is more optimistic, more future-oriented, more open, more upwardly mobile. It has less class consciousness. It is more concerned, as Martin Luther King, Jr., said, about the content of our character than the color of our skin. I think that is a very important point to remember. This is a society that, more than any society in history, has attempted to reach out to every person of every background and attempted to provide the opportunity to rise; and while in many ways we fail, we recognize it is a failure because our standard, our goal, our yardstick, is to give every American an opportunity to live a better future, something which virtually no society applies to all of its people.

Therefore, I would assert there is an American civilization, and it stands on the shoulders of Western civilization, but it includes in its heritage many other cultures, histories, and ethnicities.

Second, civilization takes learning. It takes time and effort to learn to be an American. I was really struck with this in looking at Somalia. A friend of mine, Owen Roberts, who is a management consultant and long-range planner of great wisdom, was telling me how struck he was by the early pictures of our efforts in Somalia when it hit him that the day before the Americans arrived there were going to be 8 million hungry Somalians, 2 million in danger of starving to death. After we arrived, there would be 8 million Somalians being fed, but they would not have learned any of the additional habits of self-government.

□ 1340

They would not have learned any of the additional requirements of productivity. They would not have learned any of the additional needs of being able to live together in a responsible way. But while they would not be fed, they would still lack the basic necessities of civilization which are the structure we take for granted which allow us to live together to be productive.

Now, what is true in Somalia is also true in Anacostia right across the river here in Washington. To learn to be productive, to learn to be responsible, to learn to live in safety by enforcing the rules within your community, to learn to have self-government; each of these requires a considerable amount of time and effort and can be learned, but are not automatic.

To learn to abide by the rules of self-government, that is why the power of last week's inaugural ceremony was so emotional. There is a magic to our ability to have one party, one side, in the White House, in the Oval Office with the most powerful military machine in the history of the human race, and magically, at exactly 12 o'clock on January 20, under our Constitution, to transfer all of that power, to transfer that office to the other party.

I was here as a sophomore in 1980, and I saw that magic when President Jimmy Carter left, and President Ronald Reagan came in, and I was here again last week as the second-ranking Member of the House Republican leadership watching the same magic, as after 12 years, the Republicans walked out of the White House and the Democrats and President Clinton walked in. And it is magic.

If you think it is not, look at Bosnia, look at Haiti, look at Iraq, look across the planet. There are very few places in the history of the human race where those with power have voluntarily subordinated themselves to the abstract rules of giving in to their opponents. Only in the last 200 years has it begun to be relatively common, and it is still not the fate of a majority of humans. We are getting close to a majority, but as all of us know, in many of the countries it is very fragile and very thin, and in fact, again, here at home we face these dangers not only by other countries like Bosnia and Haiti and Iraq, as grim reminders of the cost of

civilizations collapsing, but so were the gangs in east Los Angeles and the gang violence in Techwood Housing in Atlanta.

The fact is to know how to grow up, to discipline yourself, to subordinate yourself to the rules, to be part of a larger process of self-government, to focus your energy and drive and discipline on trying to be productive within a framework of not harming others, all of that is a set of learned skills and learned behaviors, and for two generations we have failed to strengthen them, to teach them, and to assert them.

So I just want to say that if you will agree that there is an American civilization, that requires that you also agree that this is a civilization worth learning, because after all, you cannot sustain any civilization beyond one generation. All it takes is the next generation refusing to learn or not being taught, and the whole process begins to fall apart. I would suggest that to study American history is to study a set of attitudes and values of practices and principles which are at the heart of prosperity and self-government.

The key question is simply: Does a proposed policy help people become more responsible, more productive, and more safe so they can be prosperous and free, so they can pursue happiness? Let me repeat that: Does a proposed policy help people become more responsible, more productive, and more safe so they can be prosperous and free, so they can pursue happiness? If the answer is yes, then that proposed policy is constructive. If the answer is no, then it is destructive.

Let me break this into two key parts. First, all we can guarantee in a free society is the pursuit of happiness. One of the great failings of totalitarian regimes, of all too many of our friends of the counterculture on the left is that they want to guarantee happiness. They seek equal outcomes when, in fact, you cannot guarantee happiness. Happiness is between you and your God. Happiness is of the spiritual world, not the secular. The most the secular state can do, is create a framework in which there is a greater chance to be happy, and clearly if you are in an American suburb in a good job, in a nice neighborhood with your kids in a good school, living in safety, you are more likely to have a chance to pursue happiness than if you are starving in Somalia or being shot at in Bosnia. But the key principle which is that government can create a framework in which you can pursue happiness and you can seek, through your own religious beliefs, to accommodate yourself to life and to come to understand what happiness is, but the state cannot guarantee or give you happiness is a very key part of American civilization.

The second point I would make about that sentence is that prosperity and freedom are not gifts. All too often we hear politicians say, "Elect me, and you will be prosperous." I want to suggest to you that except for a brief period where we transfer wealth, where we steal from one to give to another, there can, in fact, be no prosperity in and of itself, nor can there be freedom in and of itself. Prosperity and freedom are contingent on the habits of responsibility, productivity, and safety.

Only by helping people become responsible, helping them become productive, and helping them become safe can we truly help them achieve prosperity and freedom.

All too often politicians and academics focus on how we get to prosperity and freedom without building the underlying foundation, the key structure, which is at the essence of prosperity and freedom. So I would argue that every policy should be looked at, and the question should be asked: Does this policy help people become more responsible, more productive, and more safe so they can be prosperous and free, so they can pursue happiness?

And then I would apply not the issue, is it ideologically right or ideologically wrong, but, rather, is it constructive to people, or is it destructive to the way they behave. By the way, I really got turned on to this approach by reading the 1913 Girl Scout Manual. My wife and I were in Savannah a number of years ago; we went to Juliette Low's house. They sell a reproduction of the 1913 Girl Scout Manual, and when you read the ground rules for life written for girls in 1913, it is a very profound document.

First of all, it is entitled "What Every Girl Can Do For Her Country," and in that sense it is a clearly patriotic, pro-American national view, pro-American concern, trying to teach every young girl, and this, by the way, was in one of our peak periods of immigration when the effort to assimilate and bring everyone together as Americans was particularly important.

Second, it had two rules which I remember reading in 1981 that were just stunning. The first was, and this was pre equal rights amendment, this was pre what we think of in the modern age as women's liberation, and the first one was this, according to the 1913 Girl Scout Manual, that every girl should learn two trades so that if one dies, she can earn a living at the other. Now, think about how many people know who have taken 26 weeks of unemployment, gone deer hunting and bass fishing, not spent the 26 weeks in college, not spent the 26 weeks at a vocational school, not spent the 26 weeks getting a new vocation or starting a new business or learning a new trade, but then turned around at the end of the 26 weeks and said, "I need 26 more, because I am still waiting."

By contrast, in 1913 for young girls, the Girl Scout Manual was saying, "You need to always know a minimum of two trades so you can always earn a living even if one of your trades becomes obsolete."

Second, the manual emphasized saving a minimum of one penny a week. Now, a penny back then would probably be, in inflated money, 25 cents today, but the principle that drove that was this, that the act of budgeting and saving changes your perspective on life and changes your perspective on time, and teaches you discipline and teaches you over time how you can get ahead.

Now, I would suggest to you to go into any elementary or high school in America today and say to people, "You had better plan to learn two trades so that if one of them dies, you are going to have the second one, and you had better be saving at least a quarter a week, because you need the discipline, you need the experience, you need the long-term time perspective." You would be laughed at as terribly old-fashioned.

I would also suggest that the basic underlying lessons of the Girl Scout Manual of 1913 apply directly to how America got sick and why American civilization is decaying, and you cannot renew American civilization until we have the moral courage to go back and to insist on these core lessons of how people ought to behave and what people ought to do.

Let me say that civilization can be learned, and American civilization must be learned. In fact, it is the key to assimilating immigrants.

Let me say again that the key challenge in America with people who come from all over the world is not how many arrive but how fast do they become American. If we go back to being a country that is truly a melting pot, a country in which every immigrant learns English, a country in which everybody becomes habitually and, by practice, an American, a country in which we integrate and assimilate and bring together everyone, then, frankly, there is no worry about immigration. They are just new Americans with new energy and new drive and new hopes and new dreams, creating new wealth and new prosperity, and they make the whole country stronger.

It is only when the assimilating and integrating capacities of America start to slow down, it is only when we fail to teach the principles and practices and habits of being American that there has to be any kind of concern about immigrants. But that concern is not just about immigrants. Note the problems that we have in teen gangs. Teenage gangs are a function of the failure to structure schools, government, the law, and society, to teach American civilization.

□ 1350

And it is every one of those. It does you no good to have a textbook in a

classroom and have every lesson learned out in the real world undermine the textbook. We have to have laws which encourage the work ethic, we have to have laws which encourage families and encourage male responsibility for their children, we have to have laws to encourage learning and encourage retraining, we have to have laws which are very, very tough on criminals and drug dealers.

Only by having the law as a great teacher do we enforce the school, can we in fact expect people to truly learn American civilization. If effect, because we have not had the courage and the integrity and the discipline to insist on American civilization, what we have happening in all too many of our greater cities is the equivalent of the "Lord of Flies," supplied with submachine guns. Young males who do not have a hierarchy to join will form one on their own if adults do not create hierarchies and bring males into those hierarchies; this is why initiation rites matter. It is why in every healthy society there is a conscious effort to worry about young males of puberty and to bring them into adult society in a way which makes them adult. By creating a gap in which there is no way for young males to become bonded and to become initiated into being an adult American, we have created literally "Lord of the Flies" at a level of incredible violence and incredible savagery that has to sadden every single person.

Let me also say, the ability to integrate and assimilate, to initiate into American civilization, is not automatic. There are many countries in the world which do not accept outsiders almost no matter how long they stay. We are the most unique country in our willingness and our ability to bring people in and absorb them. But we are losing that ability both with our young in the cities and with immigrants across the board. We have to go back and rethink carefully how can we reestablish American civilization in its full dynamic as the most integrating society on the planet.

Third, having asserted first that there is an American civilization and, second, that American civilization must be learned by each generation, I believe that it is necessary to replace multiculturalism with other culturalism. This is not just a play on words, not just putting "other" in front of "culturalism" instead of "multi" and walking out with a gimmick. The difference is very, very clear and very simple.

Multiculturalism is the equivalent of situation ethics applied to civilization. It assumes cultures are equal morally and it assumes you can lump American civilization in with other cultures and other civilizations so that we can devote one-fifth or one-tenth or one-fifteenth of our students' time to America while concurrently studying other, equally important and equally useful cultures, so that each student would sort of invent their own version of civilization by taking what they thought was useful from all of them.

Let me say, first, American civilization must be studied first and be thoroughly mastered before we can move on to other topics; and, second, that American civilization is in fact a more powerful, a more humane, and a more desirable form of civilization. Let me first explain why American civilization should be studied first and thoroughly mastered before moving on to other topics.

The biggest and most important reason for doing that is because this is where we live, it is where we are, it is our home. Learning to be American, learning to succeed as an American, learning to participate in self-government, to live in a diverse, complex society has to take precedence if our children are to grow into responsible, productive, safe citizens capable of sustaining the civil life of a free society.

When you read the entry level exams of freshmen at some of the elite colleges and universities and you realize that a quarter of them were not aware that Lincoln gave the Gettysburg Address, that a significant number were not sure whether the Revolutionary War and the Civil War were the same event; that on item after item naming both Senators for your State, naming one or more Supreme Court Justices, knowing where the Supreme Court is between the State and Federal Government, it you take item after item of the most basic principles of American life and the current education system has collapsed so disastrously in terms of teaching American civilization that we are literally not giving young people, even elite young people going to the best schools with the best education, the kind of grounding in American civilization which they need.

But, second, I would argue you should learn American civilization thoroughly first because it is in fact better than its predecessors. The racism of Western civilization, the savagery of Aztec sacrifice, the caste system of classic Indian civilization, the oppression of women in Iran, the mutilation of young women in some societies, these practices are less humane, less decent, and less desirable than American civilization.

I think it is useful to first learn about ourselves and about what we do and about what we value, and then, frankly—and I have a doctorate in European history, I taught both world history and European history—I believe you should learn about other civilizations, but you should learn about them within the framework of your own American civilization and after having first thoroughly come to understand it.

Establishing the legitimacy of American civilization as a yardstick is important because it is the basis of reestablishing two key words, the word progress and the word decay. And I have to thank Jeff Eisenach, a brilliant young intellectual who first pointed this out to me.

Progress as a word is very, very common in the Western World up to 1914; it died somewhere between the trenches of France on the western front in World War I and the horrors of Auschwitz in Eastern Germany and Poland in World War II. Progress disappeared. We got into a system that said, "Well, there is no progress." In fact, there is a book entitled "The Death of Progress," which is a study of how the word disappeared.

Now, if you do not have progress, you also do not have decay. It is inappropriate to talk about the decay of the inner cities, the decay of our schools, the decay of our government bureaucracies, because this again implies a standard, and who are we to judge. And yet if you do not have progress and you do not have decay, you do not have the yardstick, you have no way of saying whether the next thing is better or worse. If there is no yardstick, there is a long-term tendency for people in fact to drift into barbarism and savagery.

Progress is linked to constructive and decay is linked to destructive. And the two have to come together and have to be part of the same system and the same procedures. Without progress, how do you know something is destructive? Without decay, how do you know something is destructive?

So we need a yardstick.

Now, if there is an American civilization, the question is: Is it decaying? I have talked in the last month or so about the decay of American civilization, and I have yet to have a single audience in which somebody got up and said, "Oh, we are really not decaying." In every audience I have talked to there is virtually universal agreement that we are in fact in enormous danger of decay.

Let me give you one example. There was a teachers' survey, this is in school, and they were asked the question, "What are the leading problems in your school?" In 1940 here are the three answers, in 1940 the teachers said the top three problems in school were: One, littering; two, noise; three, chewing gum.

In 1992, the same survey was asked of teachers. Here are their answers: One, rapes; two, assault; three, teenage suicide.

Let me just suggest to you unequivocally—and I would debate anyone anywhere on the following assertion—to go from littering to rape is decay, to go from noise to assault is decay, to go from chewing gum to teenage suicide is decay.

We are faced with the objective fact that, available every night on virtually every television newscast all over

America that, American civilization is in fact decaying.

The National School Board Association is in town. They asked the question this year, "What do you think is the biggest single problem in education?" And like all good educational bureaucracies, they would hope the people would respond, "We need more money." Well, 22 percent said underfunding is the key problem; 48 percent said it was drugs, discipline and gangs. Forty-eight percent said drugs, discipline and gangs are the biggest problems in America schools. And in fact 9 percent listed gangs as their biggest problem.

Now, think about an America where 9 percent of the schools list teenage gangs, 9 percent of the parents list teenage gangs as the biggest problem in their school. If that is not decay, what is?

Science magazine reported about a month ago that in the last 10 years the ability of Americans to do math as compared to the Japanese and Chinese has not improved one bit. We have had 10 years of a nation at risk, we have had 10 years of politicians talking about education, we have had 10 years of spending more money on education, we have had 10 years of discussion, and the fact is that as of today we have not improved our mathematical abilities compared to Japan and China at all.

Now, I would suggest to you unequivocally that American civilization cannot survive as a country in which 12-year-olds have children without preparation, schools give people diplomas when they are illiterate, a significant number of our young are drug-addicted, there are neighborhoods so violent that we cannot create new jobs, there is an AIDS epidemic which is 90 percent avoidable by behavioral change, and all too many of our young have a sense of hopelessness which leads them to assume, accurately in some cities, that since they are going to die before they are 20, there is no point in planning for the long run.

□ 1400

That collection of problems is in fact the crisis for the future, so I do assert American civilization is decaying.

To paraphrase Franklin Delano Roosevelt, our generation's rendezvous with destiny is to dedicate ourselves to renewing American civilization. We need a movement dedicated to renewing American civilization.

I think it will take 2 million or more active citizen leaders to insist on and insure the renewal of American civilization.

Let me say, I think that renewal needs to be cultural. It needs to be societal. It needs to be educational. It needs to be economic. It needs to be governmental and it needs to be political.

This is not just an act of renewing involving politics and politicians and votes. It is everywhere from what does your local school teach to what does your alma mater teach, to what do you hear on radio and television, to what happens with your local club and your local civic organization, to what are your governments and your politicians doing.

I believe that when you look at the 21st Century that there are five pillars of renewing American civilization. The five are simple.

First, quality as defined by Edwards Deming.

Second, technological advancement.

Third, entrepreneurial free enterprise.

Fourth, the principles of American civilization.

Fifth, psychological strength. Let me expand on those for just a moment.

First, quality as defined by Edwards Deming. Deming is the man who taught the Japanese the concept of quality. He describes it as profound knowledge. It is truly quality with a capital Q. It is not just doing things right. It is an entire way of thinking about your customer, your supplier, your business, your job, your relation with your fellow employees. It is a set of behaviors which allows us to provide for less cost, faster service, higher quality, greater satisfaction.

I would assert and I do not know of any quality expert who disagrees with me, that if we were to apply quality to education, to health and to government, we would lower the deficit by 59 percent within 3 or 4 years, while actually improving services, improving health, improving learning and creating a better customer satisfaction with the bureaucracy.

Quality is a dramatically different way of approaching things, and I will be talking about it more in the next few weeks. Let me give just one or two quick historic examples.

The Ford Motor Co., and this is described by Peterson in a tremendous book called "A Better Idea," very simple, easy, understandable reading, in which he outlines how quality and Deming applied profound knowledge to the Ford Motor Co. The Ford Motor Co. last year had 9 of the 10 most efficient factories in the United States in the auto industry. Nissan had the 10th. The Ford Motor Co. now rivals Toyota as the most productive automotive company in the world.

Why? Because they profoundly reexamined what they were doing, how they were working, how they related to their customers, how they related to suppliers, and they have changed the fundamental culture of the Ford Motor Co. Peterson describes it brilliantly in his book. I would simply suggest that every American citizen has to become familiar with the concept of quality and with Deming's work. Every American citizen has to think how does this apply to my life, to my neighborhood, to my community, to my government.

In education, we need to rethink learning from the ground up.

In health, we need to re-think the entire process of having a healthy nation from the ground up, and in government there is no reason that we cannot have as large a downsizing of the New York City bureaucracy, the Georgia State bureaucracy and the Federal bureaucracy, downsizing comparable to Ford, IBM, General Motors, or Xerox.

Let me just point out one of the great intellectual failures of the welfare state is the fact that sacrifice was talked of in the inaugural address last week, but the only people so far who are going to sacrifice are working taxpaying Americans. Nobody has yet said let us have basic change in the fundamental structure of the bureaucracy. Let us apply Deming's concepts of profound knowledge.

This is not a question of more or less. With quality, you actually get better services and better customer satisfaction and more productivity, while using fewer resources and fewer people. It is as big a revolution for the 21st century as the assembly line and Henry Ford and Taylor's scientific management were at the beginning of the 20th century. It is a fundamental revolution.

Second, technological advance. You know, America has been the most protechnological society in the history of the world. The fact is that Desert Storm was largely a victory of technology. It was 19- and 20-year-old Americans in M–1 tanks with infrared vision seeing 3,000 meters out on a foggy morning to kill a T–72 tank which literally could not see them. It was F–117's that were invisible to the Iraqi radar sitting over Baghdad with laser-guided bombs and television-guided bombs, putting them in windows of buildings when the Iraqis could not even find the F–117's.

It was a level of electronic information, command and control, that put us in a different world from the Iraqi's.

Technology has always been good for Americans, from Benjamin Franklin who invented the bifocal glasses, the Franklin Stove, the lightning rod, up through Eli Whitney and the cotton gin, Samuel Colt and the revolving pistol, Morse and the Morse Code and the telegraph, all the way up to the present. Americans have been proud of the idea that we are the most pragmatic, the most technology-oriented, the most futuristic of all people; and yet today the bureaucracy of the welfare state is slowly and steadily grinding down our ability to be technologically advanced and the cultural attitudes of the left and the counter-culture are so antitechnology that they are slowing down the development of new medicine, the development of new learning systems, the development of new ways of getting things done.

It is very important to understand in terms of cost, that the only two places

in American life where the cost of technology goes up are the Defense Department and those aspects of health dominated by government. Microwave ovens, the cost goes down. Color televisions, the cost goes down. Cellular telephones, the cost goes down; but if you are a government bureaucracy, like the Pentagon or the Health Care Finance Administration and in charge of cellular telephones and microwave ovens, the cost would go up.

So first of all, keeping technology moving, inventing a better future, creating better ways of doing things, is at the heart of being American.

Imagine, if you will, just to show you how sad the situation has become and how bad the decay is, imagine that Thomas Edison invented the electric light today in the welfare state. It would be reported by major news networks, a report which would begin, "The candle-making industry was threatened today."

At least three liberal Senators would jump up and introduce a bill to protect the candle union. Ralph Nader would hold a press conference to announce that electricity can kill and the entire development of electric lights as applied by General Electric would be blocked.

If you think I exaggerate, look at the newspapers and see how many examples you can find.

Or consider a different approach, the problem of regulation in an antitechnology bias if the Wright brothers showed up today. Can you imagine the Wright brothers at the Environmental Protection Agency. They had invented a brand new machine which went through the air and had a propeller that chopped through the air. The EPA bureaucrat, of course, would immediately say, "And how many insects do you kill? And when you kill those insects, how many of them are endangered? You want go do down to Kitty Hawk and irresponsibly fly this thing without even having done a census of insects."

So the Wright brothers leave the EPA with a folder full of forms to fill out in triplicate, walking down the hall suddenly encounter the Occupational Safety and Health Administration.

Can you imagine Orville and Wilbur walking in, saying to the OSHA inspector, "We're bicycle mechanics. We have invented this thing. We're pretty sure it goes up and we think it will come down. We're not sure about that yet, never tried it before. We are not exactly sure what the safety conditions are, but Wilbur said he would get in it and we will go down and see what happens."

By the time OSHA got done with all the different safety equipment they would want to put on the original Kitty Hawk flier, which you can see by the way right down here in the Smithsonian Air and Space Museum. Go down and imagine that plane, thin, frail, light, experimental, after OSHA got done with the seatbelts and the extra things and the this's and the that's and the structural reinforcements, the sucker would never have gotten off the ground and we would have no problem of airplane crashes today, because we would not have any airplanes.

If you think I exaggerate, talk to anybody in the pharmaceutical industry who is trying to get a new drug to come to market to help people with terminal diseases. You cannot get the drug to be experimented with because the people who are dying might be sick. So literally what happens is the bureaucracy says that we cannot allow mature adults to try this out because, after all, it might worsen them. And you say to them, "Well, these people are going to die in the next two months."

"It does not matter. We cannot allow you to take this risk, even if they want to take the risk."

Or go talk to people who make the most minor modification and are then forced to get back in line at the bureaucracy and wait for 1 year, 2 years or 3 years to get some bureaucrat to approve the paperwork in order to put something on the market which, in fact, is clearly, by any commonsense standard, already demonstrably safe.

I would just suggest to you that between the culture of the left and the welfare state bureaucracy, we have become a much more antitechnology society than it should be, and it is a tragedy because technology could revolutionize health care and radically lower the cost of taking care of yourself and give you a great deal more diagnostic information without having to go to the doctor.

Technology could explode the capacity of humans to educate themselves and to learn without having to show up at school during certain hours. So we should be very technologically oriented and we should reestablish technological advance as a key part of our future.

Third, entrepreneurial free enterprise is of the essence not just of being productive, the essence of not just being prosperous, but it is the most powerful method for getting government to work.

□ 1410

When government in the 19th century wanted to build railroads, they encouraged private enterprise to do it. When government in the 1950's wanted to have jet aircraft for transportation uses, it was private companies who did it. You can make a very powerful argument that if the shuttle were being built by a private company rather than by NASA, it would be cheaper, faster, less expensive to maintain, and come in ahead of schedule and under budget. Instead, the longer we bureaucratize the space program, the more we make it a socialist space program, the more expensive it gets, the more bureaucratic it gets, the slower it gets, and the less efficient it gets.

Now entrepreneurial free enterprise is important in a number of levels. First of all, it is the most powerful way for minorities to rise and become wealthy. We can see this with Asian-Americans who have the most entrepreneurial orientation of all the ethnic groups currently coming to the United States. We also see this with the West Indian blacks who have a higher average income in the United States than do whites. Any group which starts out trying to set up small businesses, working very hard, saving, developing a better future, is, in fact, going to rise in America. In America, if you will get a job, keep a job, work, if necessary, at a second job and live 10 percent below your take-home pay, even if you are very poor, it is amazing how rapidly you can accumulate.

Mr. Speaker, that is not just a homily. That is true for Laotians, Cambodians, Vietnamese, Japanese, Koreans, Chinese, Indians, and Pakistanis. Virtually every group which comes to America with a strong work ethic and a strong extended family rises very rapidly.

As I said earlier, it is true for West Indian blacks. It is true for most Hispanics. It is only when the welfare state starts to break down the work ethic, starts to break down the savings ethic, starts to break down the willingness to go out on your own and set up a business, starts to break down the family—only when the welfare state takes over an ethnic group and breaks down those habits do we in fact see them trapped in poverty.

When you look at entrepreneurial free enterprise, there is another way to look at it. McDonald's has the most powerful job training system in the world. More young people get more entry level training in McDonald's than anywhere else. Yet the tragedy of the welfare state is that our attitude is to raise the taxes on McDonald's to transfer the money to a bureaucracy to pay for the Job Corps even though in recent studies it has been proven that you will have a lower lifetime earning level if you go to the Job Corps than if you avoid it.

My point is this:

We should be encouraging job training through the businesses that are productive and entrepreneurial. We should be encouraging the maximum number of small businesses. We should be encouraging every minority group and every woman to go out and start a business because the best way to break the glass ceiling is to own the glass. We should be rethinking government, rethinking health care, rethinking learning, rethinking all the different aspects

of bureaucracy, applying entrepreneurial free enterprise before we talk about a single penny in tax increases.

Mr. Speaker, until we have reformed the New York City bureaucracy, the worst single bureaucracy in the country in work rules, until we have reformed the Federal bureaucracy in Washington, until we have really taken apart and rethought what we are doing in terms of the system we currently have, we should not raise a penny in taxes on working Americans because government has not yet sacrificed by developing new ideas and new approaches.

Fourth, after equality, technology, technological advance, and entrepreneurial free enterprise are the principles of American civilization. We simply have to be committed to teaching people the work ethic. It was fascinating to me and one of the things that allowed me to feel comfortable giving this talk to realize that when the Atlanta Constitution in January 1992 asked in 10 States—they asked southern blacks the following question: "Do you believe that everyone should be required to work who gets welfare, including women with young children?" Eighty-one percent of southern blacks said yes, everyone should be required to work if they get welfare. Interestingly that was actually two points higher than southern whites. Seventy-nine percent of southern whites said yes.

Mr. Speaker, there is a basic core belief still in a strong family, in male responsibility for their children, in the work ethic, in the importance of saving, and yet our Tax Code, our welfare code and, all too often, our school systems fail to reinforce and fail to strengthen precisely these behaviors. We should replace welfare with workfare. We should have a school system which rewards learning. We should have a system which is aimed at health care, at rewarding wellness. We should change the Tax Code to encourage savings rather than to punish people who save by raising their taxes. On every front we should reestablish the principles of American civilization so that it replaces the welfare state with an opportunity society and so the law reinforces the right values.

Last and fifth, Mr. Speaker, after quality, technological advance, entrepreneurial free enterprise, and the principles of American civilization, we need to emphasize psychological strength. Five simple words: Courage, hard work, perseverance, discipline, and integrity. I want to repeat those: Courage, hard work, perseverance, discipline, and integrity.

Let me say bluntly, Mr. Speaker, if you do not have psychological strength in a free society, you are not going to get there. You will not be able to hold a family together, you will not be able to learn a trade, you will not be able to open a small business, you will not be able to rise economically, and you will not be able to do the hard work of freedom that is the essence of citizenship.

For two generations we have failed to be honest with the poor about the fact that you need more courage, more hard work, more perseverance, more discipline, and more integrity if you are poor. The rich can afford to buy substitutes, but in a free society every citizen has to have psychological strength.

I was first turned on to this by Gary Wills in his book, "Inventing America," which is a study of the Declaration of Independence. Wills describes George Washington, a passage that I will bring over in the near future, and I will read it into the RECORD, and he says:

> Nobody in the modern age can appreciate the importance of George Washington because it wasn't that he was brilliant in I.Q., it wasn't that he was a charismatic leader in speaking. It was that his personal integrity, his personal character, his personal commitment were so powerful that people felt they could lean on him, and he could truly be the Father of the Nation, and he could truly be the general in charge of the Revolutionary Army.

And Wills goes on to say:

> No modern historian can truly explain George Washington because they can't explain these psychological strengths. They don't fit the way modern liberal culture talks about the world.

And so I want to suggest to my colleagues that every young person needs to study George Washington, and they need to study people who rose in one generation, whether it is Andrew Carnegie or Henry Ford. They need to understand people that are successful at invention such as Thomas Edison and the Wright brothers. They need to learn over and over again the importance of psychological strength and the very fabric of life, and I would say to my colleagues, whether it is the problem of males having to be responsible for their children, the problem of getting people to start small businesses when they are poor, the problem of stopping the AIDS epidemic, which is largely, frankly, an avoidable disease, based on behavior, and the problem of stopping teenage pregnancy, which is as avoidable as other behaviors and in many societies has been avoided; all of these have to come back in the end to psychological strengths and teaching people that they have to find within themselves the courage, and hard work, the perseverance, the discipline, and the integrity.

Now I think, as we focus on renewing American civilization, we have to remember President Reagan's great lesson, that you cannot do too many things at once. We have to focus on a couple of big projects at a time. I want to suggest for every American three areas to focus on in the next couple of years until we solve it.

First, economic growth; second, health; and third, saving the inner city.

First, economic growth is vital because in a free society you need to keep growing to bring everybody into prosperity to avoid the kind of bitterness and hatred we see in Bosnia, and in Serbia and in Croatia. We need an economy that is growing so everybody can have a better future. We need an economy that is growing so there is more wealth to sustain and help government institutions. We need an economy that is growing so we can lead the planet and so that we can have the strength to provide power, assistance overseas.

Now, as subsets of economic growth we have to worry about the deficit, we have to worry about incentives for saving, and investment and job creation. We have to worry about creating a culture, an educational system and changing the bureaucracy so that it is proeconomic growth. But I think the topic and the goal ought to be growth, and that ought to be our first goal.

Second, Mr. Speaker, we need to focus on health. Notice that I did not say health care. Health care is subordinate to health. If we have good enough prenatal care, we are going to have healthier babies who need less health care. If we have good enough emphasis on wellness, we are going to have fewer heart attacks and need less health care. We need to look at the totality of having a healthy America. That means more preventive care, more emphasis on wellness. It means entrepreneurial health care rather than bureaucratic health care. It means returning power to the citizen in health care, making such that the citizen, as patient, is able to choose who their doctor is, what kind of services they want, and that the citizen has information. I will spend a good bit of time in the near future talking about the medisave account concept that JOHN KASICH, and RICK SANTORUM, and Pat Rooney have developed, the concept of a medical savings account, and I will talk about ways in which we can change behavior, lower the cost of health care; not just cap it, lower it. We can have better health with better health care at lower costs with greater customer satisfaction if we are prepared to look at entrepreneurial health care and replace the bureaucratic health care system if we are prepared to talk honestly about the requirements of prevention and wellness and if we are prepared to go to some system like medical savings accounts or medisave accounts to give people an incentive to change their behavior.

□ 1420

I will spend a good bit of time in the near future talking about health.

Third, we must save the inner cities. Conservatives and Republicans must

have the courage and the responsibility for all Americans, no matter what their background, no matter where they live, no matter what their circumstances. At the same time, liberals and Democrats must care enough about the inner city to put aside ideology and interest groups and come to the table and talk openly about how together we can save the inner city. I believe if we apply the five pillars I have described, if we apply quality as defined by Deming, if we apply technological advance, if we apply entrepreneurial free enterprise, if we apply the principles of American civilization, and if we apply psychological strength, I believe it is possible to save the American city. And I would say that there is no greater moral challenge to this Congress and this city than to take passionately, deeply, and intensely the challenge of saving the American city.

The human face of pain, the loss of life, the tragedies near this Capitol are heartbreaking. More Americans have died in DC, than have died in Somalia since the Marines and the Army landed there. Think about that. That is the objective factual reality, and I will report on it in a special order later on this spring. More Americans have died here in the National Capital than have died in Somalia. Does that not shock you, alarm you, sicken you?

We read about 5- and 6-year-olds killed by stray bullets. We read about a principal in New York who was out walking the neighborhood looking for a truant he wanted to save and get back to school, and he is killed by a stray bullet. We had a teacher in the Atlanta area just a week ago, raped and brutalized because she went to school at 7 in the morning and the guard does not come until 8. She was assaulted in the school. At what point are we going to say, "Enough"?

We have children here within 2 miles or within 1 mile of this building who are not getting educated, but who are trapped in classes that do not work. We have families that do not have adequate food. We have 14- and 15-year-old males who have 1, 2, and 3 children, none of whom they are responsible for. We have a civilization which is decaying and on the verge of breaking down. Every American has an obligation, I believe, to come to the table and talk about how we reestablish American civilization so that every child of God who is an American can be changed for the better. I do not care if they are black, white, yellow, red, or brown, I do not care if they are male or female, I do not care what their circumstance was yesterday; I care about the fact that we can change them today so their circumstance tomorrow can be better.

I think there is no more heart-rending requirement than that we focus on saving the inner city. We cannot renew America until we reclaim, rebuild, and renew the inner city.

All this is a huge challenge. I have talked about renewing American civilization. I have described the five pillars of that civilization. I have suggested three areas that we have to focus on. It is a huge challenge.

Let me say this: I say this after 2½ months of thinking about where we have to go, and I do not have the answers. I have ideas, I have insights, and I see possibilities. I feel a lot like a futurist in 1903 who met with a bunch of vaudeville actors. Remember, vaudeville actors earned their living on a live stage with a band and with people out front, very often in a saloon. They went around the country on a circuit by train. They could get one good act and they could keep that act for a lifetime because by the time they came back around again, people had forgotten that they had been there 4 years earlier.

Imagine that we had a meeting of vaudeville actors in 1903 and we said to them that there were three events in 1903: the Great Train Robbery which was made as a film, and the first feature was a film with a plot 4 minutes long and that still shows down in Disneyworld; Henry Ford produced his first assembly line automobile; and the Wright brothers flew at Kitty Hawk. Now, imagine that we tried to explain to these vaudeville actors that everything they had been doing live in front of people would be replaced by a screen with a flickering black and white image, with no voice, and people would read the subtitles, and they would actually prefer to go to that silent movie rather than see a live vaudeville show next door, and that that film would be actually something which had happened 3 or 4 months earlier in New York or in Los Angeles and had been edited and put together so it did not even occur the way it looked on the film, that they had just shot different scenes and some other person put them together, and that some people like Charlie Chaplin were going to get richer on screen than they ever could have gotten in vaudeville.

And imagine that we tried to say to them:

Wait until 30 or 40 years later, fellows. The movie is going to become color, and it is going to have voices and music, and you are going to be able to watch it sitting in an airplane, and that airplane is going to be bigger and longer than the entire flight at Kitty Hawk in 1903.

You would say that literally a Boeing 747 is longer than the entire initial flight by the Wright brothers, and that 450 Americans are going to sit in this airplane and eat food which is prepared in a microwave. I would not even want to try to explain what a microwave was. And we would say they are going to fly from Atlanta to New York or from Atlanta to London, and it is going to be so common that they are not even going to say it is a miracle; they are just going to get off, and their only comment is going to be that the food was not that good and they had already seen the movie.

Now, how could you consciously get those vaudevillians to understand the scale of change that was about to overwhelm them? I do not know, but I believe that is where we Americans are—the computer, fiberoptics, biotechnology, satellites, worldwide transmission.

If you read President Clinton's inaugural address, everything he said about change and technology and the world market and information was exactly right. It was not particularly new, except for the part about politicians, and it took great courage on his part, I think, to say it, and it will take even greater courage to live it out and to follow it.

But if you read Alvin Toffler's "Future Shock" or his later book, "The Third Wave," Kenneth Boulding's "The Meaning of the 20th Century," Peter Drucker's "The Age of Discontinuity," or Naisbitt's "Megatrends," all these books tell you the same things over and over again. We are at a turning point where all changes are going to be so amazing that we who are in public life—and all citizens should be in public life; every American has an obligation to care about their country—will have to try to develop the answers that allow us to renew the American civilization in the middle of that scale of change.

I do not have the answers. I would say to any of my colleagues or anyone else who sees this or who reads it in the CONGRESSIONAL RECORD that if you would like to send me success stories applying the five principles of quality, technological advance, entrepreneurial free enterprise, the principles of American civilization, and psychological strengths, I would love to get those success stories. If you have horror stories that illustrate why we need to renew American civilization, send them to me because they are often useful in illustrating why we must change. If you can develop some good ideas that are attempts to apply these principles to renewing American civilization, send me your ideas.

We have to create a movement to renew American civilization. We have to do it at every level. We have to have a vision of American renewed civilization. We have to have specific projects that are the building blocks of renewal, and we have to work every day tactically at renewal.

Let me just close with this thought: Every night on television we are reminded of what is at stake for ourselves and our children. We cannot rear our children and grandchildren in a world in which they can be shot going to school. We cannot give them a world in which their chances of becoming pregnant, of dying of AIDS, of being

trapped in poverty, of going to a school that fails, of not being able to compete, become overwhelming. We cannot leave our children a country that is decaying economically, decaying educationally, decaying on health care, decaying in welfare, and decaying in its great cities.

And more is at stake than just America or just our children. In the last 20 years we have been the last best hope of mankind. We have gone from a tiny strip of 13 colonies on the eastern part of the North American Continent to the most powerful universal civilization in the history of the human race. All across the planet people want to be more like Americans. All across the planet people want human rights, without regard to sex, without regard to race, and without regard to religion, which is at the essence of being American. All across the planet people want the right to free elections, to free speech, to productivity and prosperity, which is the essence of being American. If we fail, we are being warned every night by Bosnia, Azerbaijan, Armenia, Iraq, Somalia, Haiti, and a host of other countries that the fabric of civilization which we have slowly helped sew will come apart and that the 21st century will be a century of horror and brutality unimaginable to most of us.

I believe that every American citizen has to confront the fact that it is not just their political leaders, it is not just their educational leaders, and it is not just their business leaders, but that every American has an obligation, and that obligation is to be committed to a renewal of American civilization, and that, as I said earlier, in Franklin Roosevelt's words, our generation has a rendezvous with destiny and we have to keep that rendezvous.

THURGOOD MARSHALL DIES

The SPEAKER pro tempore (Mr. KOPETSKI). Under a previous order of the House, the gentleman from Michigan, Mr. CONYERS, is recognized for 15 minutes.

Mr. CONYERS. Mr. Speaker, yesterday Thurgood Marshall, retired member of the Supreme Court, passed away. It is my intention to announce that there will be special orders in this body commemorating his life and works. In addition, I am pleased to announce that the Congressional Black Caucus is planning a memorial tribute to him, for which details are forthcoming.

Thurgood Marshall was the first black African-American member of the U.S. Supreme Court. He was a historic figure who will always be remembered as an incredibly accomplished individual with varied interests. He was widely recognized as the most effective member of the Supreme Court in this century.

As the great-grandson of a slave and born in Baltimore from working class parents, Marshall understood the importance of hard work. It was this source of inspiration that positively influenced all his future decisions and achievements. Even after his appointment to the U.S. Supreme Court, Marshall still maintained these beliefs. Though he worked with some of the most prestigious individuals of our time, he never forgot the plight of the impoverished, the struggling, and the suffering.

It is appropriate that we remember Marshall not only as the effective Supreme Court Justice I have just described, but also as an advocate of school desegregation. It was Marshall who, as counsel for the NAACP legal fund in 1954, took his life in his hands to argue that everyone, regardless of race, creed, or color deserved to be educated. He also led the charge to eliminate white-only primary elections and explicit discrimination in housing contracts. As a civil rights attorney and Justice of the Supreme Court, Marshall became the principal architect of a strategy of using the courts to provide the equality that African-Americans were not otherwise afforded.

Marshall is a uniquely special individual who deserves to be honored by this body, and who will continue to serve as a reminder of everything that we must all strive to become.

Mr. Speaker, I include the following articles for the RECORD:

MARSHALL MOURNED, REMEMBERED IN WASHINGTON STATE

(By Elizabeth Weise)

SEATTLE.—The likes of Thurgood Marshall may never sit on the Supreme Court again, the local president of the National Association for the Advancement of Colored People said.

"He was a 'once in a lifetime,'" said Lacy Steele, who also serves on the NAACP national board. "The nation has lost one of the premier Supreme Court justices and an attorney who set history in the annals of law. There has been a great void left by his passing."

Marshall, who retired from the Supreme Court 18 months ago because of his age and poor health, died Sunday of heart failure at Bethesda Naval Hospital outside Washington, D.C. He was 84.

Lyle Quasim Pierce County chairman of the Ethnic Minority Advocacy Commission, was among those on Sunday mourning the passing of the high court's black justice. Quasim said he didn't know what he would have achieved without Marshall's early leadership in courtroom civil rights battles.

"That's God's honest truth. I'm sitting here in Tacoma with a nice house and three degrees and a good job, and were it not for the work of people like Justice Marshall, none of it would be possible," Quasim said.

"We have millions of Americans, African-American kids in particular, who don't know what happened in the early civil rights movement," he said. "We can take this as an opportunity to re-educate about the tremendous changes that time had upon our country."

Marshall was "a national treasure," said Louise McKinney, 62, director of academic achievement for the Seattle School District.

Even after Marshall argued the 1954 Brown vs. Board of Education ruling that desegregated public schools, it was years before school districts began hiring black administrators, McKinney said.

"So there are many of us who may not realize it, but we have our jobs because of the work Justice Marshall did," she said.

"In our hearts and minds, he represented everything that had to do with civil rights. His passing represents the end of an era," McKinney said. "His memory is a mandate for us to continue that work, because it is not the responsibility of an individual, but of us all."

Oscar Eason, 58, regional director for Blacks in Government, said he felt dwarfed by the presence of Marshall on the two occasions they met.

"Some of the cases he argued at the Supreme Court were monumental. Law students today study his cases as fundamental to an understanding of civil rights law," Eason said.

"Thurgood was one of the all-time greats," he said. "We're going to miss him."

Eason said that when he begins to question what he's doing after six to eight hours of community service on top of his regular job, "I think of the work and sacrifices of people like Thurgood Marshall and I know."

[Guide to the U.S. Supreme Court, 2d cd. 1989]

BROWN V. BOARD OF EDUCATION

Even as the Court announced its decisions in *Sweatt* and *McLaurin*, the five cases in which the Court would make the implicit explicit were taking shape. In each of the five cases, parents of black school children asked lower courts to order school boards to stop enforcing laws requiring or permitting segregated schools.

THE CASES

The challenge that gave the landmark school desegregation decision its name, *Brown* v. *Board of Education of Topeka*, was brought in 1951 by Oliver Brown in behalf of his daughter Linda. Under Kansas law permitting cities with populations over 15,000 to operate dual school systems, Topeka had opted to segregate its primary schools. As a result Linda Brown was forced to walk twenty blocks to an all-black grade school rather than attend an all-white school in her neighborhood. Several other black families joined the challenge.

In 1951 a federal district court found Topeka's segregation detrimental to black children but found no constitutional violation because the black and white primary schools were substantially equal with respect to buildings, curricula, transportation, and teachers.

The case of *Briggs* v. *Elliott* was actually the first to reach the Supreme Court. Federal proceedings began in 1950 when parents of black elementary and secondary school-aged children in Clarendon County, South Carolina, asked a federal district court to enjoin enforcement of state constitutional and statutory provisions requiring segregation in public schools. The court denied the request, but found the black schools inferior to the white and ordered the school board to equalize them immediately. The court refused, however, to order the school board to admit black children to the white school while the equalization took place. The children's parents then appealed to the Supreme Court, which in 1952 returned the case to the lower court to consider a report on the progress of the equalization program. The lower court found that the school board had either achieved substantial equality in all areas or soon would, and it again upheld the separate but equal doctrine. The case then returned to the Supreme Court.

Davis v. *County School Board of Prince Edward County, Va.* was almost identical to *Briggs*. Parents of black high school students sued to stop enforcement of the state's constitutional provisions requiring separate

schools. While the district court found the black high school to be inferior and ordered its equalization, it upheld the validity of the segregation provisions. It also refused to admit the black students to white high schools while the black schools were being brought up to par with the white schools.

The fourth case, *Gebhart* v. *Belton*, involved the schools of New Castle County, Delaware. As in the other cases, parents of black children sued to stop enforcement of the constitutional provisions mandating a dual school system, but unlike the other cases, the state court granted the request. Finding the black schools inferior on a number of points, the court ordered white schools to admit black children. The state supreme court affirmed the decree, which the school board then appealed to the U.S. Supreme Court.

The fifth case, although argued with the other four, was decided separately. *Bolling* v. *Sharpe* concerned public schools in the District of Columbia. Because the Fourteenth Amendment's guarantee of equal protection of the laws applies only to states, parents of black pupils based their challenge to school segregation in the District on the Fifth Amendment's guarantee of due process. A district court dismissed the suit, and the Supreme Court granted review of the dismissal.

Together, the five cases brought to the Court grade school pupils and high school students, mandatory segregation laws and more permissive laws, the equal protection clause of the Fourteenth Amendment and the due process clause of the Fifth Amendment. Geographically, the five cases came from two southern states, one border state, a plains state, and the nation's capital. As on commentator noted, the "wide geographical range gave the anticipated decision a national flavor and would blunt any claim that the South was being made a whipping boy."

In all five cases the lower courts found that education offered black students was substantially equal, or soon would be, to that given in the white schools. Thus the question presented to the Court was whether public school segregation per se was unconstitutional.

THE ARGUMENTS

The school cases were argued in December 1952. In June 1953 the Court requested reargument, asking the attorneys to address themselves to three main questions.

What historical evidence was there that the Framers of the Fourteenth Amendment intended it to apply to segregation in public schools?

If the answer to the first question was inconclusive, was it within the power of the Court to abolish segregation?

If school segregation was found unconstitutional, what approach should the Court take to end it?

The cases were reargued in December 1953. Two months earlier former California governor Earl Warren had become chief justice, replacing Vinson, who had died in September. Because Congress had already adjourned when he was named, Warren presided over the Court by virtue of a recess appointment until his unanimous confirmation on March 1, 1954.

Although there were several lawyers on both sides, the two leading adversaries were Marshall, director of the NAACP Legal Defense and Educational Fund, which had been instrumental in guiding the challenge to school segregation through the courts, and John W. Davis, U.S. representative, D-W.Va. (1911–1913), solicitor general (1913–1918), and ambassador to Great Britain (1918–1921). In addition to being the 1924 Democratic presidential nominee, he had argued more cases before the Supreme Court than any other lawyer of his era.

Marshall, then forty-five, would become in 1967 the first black to sit on the Supreme Court. Davis, at age eighty, was making his final appearance before the Court, arguing in behalf of South Carolina in *Briggs* for the continuation of school segregation.

It is one of the ironies of these cases that in 1915 Davis as solicitor general had successfully persuaded the Court to strike down Oklahoma's "grandfather clause" that prohibited blacks from voting. In that case the fledgling NAACP supported Davis's position in its first friend-of-the-court brief.

Davis was first to present an answer to the Court's three questions. He contended that the Fourteenth Amendment was never intended to bar segregation in the nation's public schools. In addition to an intensive examination of the legislative history surrounding enactment of the amendment, Davis also recited the names of the states both north and south that instituted or continued to conduct segregated schools after the amendment was ratified; several of these same states had voted to ratify.

To the question whether the Court had the authority on its own to overturn the separate but equal doctrine, Davis remined the Court that the doctrine had been upheld not only by the lower courts but by the Supreme Court, and had therefore become part of the law of the land. "[S]omewhere, sometime to every principle comes a moment of repose when it has been so often announced, so confidently relied upon, so long continued, that it passes the limits of judicial discretion and disturbance," he said.

Making clear what he thought of earlier expert testimony concerning the detrimental effects of segregation on black children, Davis rhetorically asked what impact a desegration order might have on a predominantly black school district such as Clarendon County:

"If it is done on the mathematical basis, with 30 children as a maximum * * * you would have 27 Negro children and three whites in one school room. Would that make the children any happier? Would they learn any more quickly? Would their lives be more serene?

"Children of that age are not the most considerate animals in the world, as we all know. Would the terrible psychological disaster being wrought, according to some . . . to the colored child be removed if he had three white children sitting somewhere in the same school room?

"Would white children be prevented from getting a distorted idea of racial relations if they sat with 27 Negro children? I have posed that question because it is the very one that cannot be denied."

Davis also said he did not believe the courts had the power to tell the states how to desegregate their schools. "Your Honors do not sit, and cannot sit as a glorified Board of Education for the State of South Carolina or any other state. Neither can the District Court," he declared. Davis then concluded:

"Let me say this for the State of South Carolina. . . . It believes that its legislation is not offensive to the Constitution of the United States.

"It is confident of its good faith and intention to produce equality for all of its children of whatever race or color. It is convinced that the happiness, the progress and the welfare of these children is best promoted in segregated schools, and it thinks it a thousand pities that by this controversy there should be urged the return to an experiment which gives no more promise of success today than when it was written into their Constitution during what I call the tragic era.

"I am reminded—and I hope it won't be treated as a reflection on anybody—of Aesop's fable of the dog and the meat. The dog, with a fine piece of meat in his mouth, crossed a bridge and saw the shadow in the stream and plunged for it and lost both substance and shadow.

"Here is equal education, not promised, not prophesied, but present. Shall it be thrown away on some fancied question of racial prestige?"

Marshall's response to Davis the following day illustrated the difference between the two men's styles and philosophies:

"I got the feeling on hearing the discussion yesterday that when you put a white child in a school with a whole lot of colored children, the child would fall apart or something. Everybody knows that is not true.

"Those same kids in Virginia and South Carolina—and I have seen them do it—they play in the streets together, they play on their farms together, they go down the road together, they separate to go to school, they come out of school and play ball together. They have to be separated in school.

"There is some magic to it. You can have them voting together, you can have them not restricted because of law in the houses they live in. You can have them going to the same state university and the same college, but if they go to elementary and high school, the world will fall apart . . . They can't take race out of this case. From the day this case was filed until this moment, nobody has in any form or fashion . . . done anything to distinguish this [segregation] statute from the Black Codes, which they must admit, because nobody can dispute . . . the Fourteenth Amendment was intended to deprive the states of power to enforce Black Codes or anything else like it.

". . . [T]he only way that this Court can decide this case in opposition to our position, is that there must be some reason which gives the state the right to make a classification that they can make in regard to nothing else in regard to Negroes, and we submit the only way to arrive at this decision is to find that for some reason Negroes are inferior to all other human beings. . . .

"It can't be because of slavery in the past, because there are very few groups in this country that haven't had slavery some place back in the history of their groups. It can't be color because there are Negroes as white as the drifted snow, with blue eyes, and they are just as segregated as the colored man.

"The only thing [it] can be is an inherent determination that the people who were formerly in slavery, regardless of anything else, shall be kept as near that stage as possible, and now is the time we submit, that this Court should make it clear that that is not what our Constitution stands for."

THE DECISION

All nine justices—including Robert H. Jackson, who had left a hospital bed—were present May 17, 1954, when Chief Justice Warren read the unanimous decision in Brown v. Board of Education. The opinion, described by many as the most socially and ideologically significant decision in the Court's history, was just thirteen paragraphs long.

Warren quickly disposed of the Court's first question—whether the Framers of the Fourteenth Amendment intended it to bar

school segregation. The evidence was inconclusive.

The chief justice then turned to the "separate but equal" doctrine. Unlike Sweatt, he said, children attending the segregated public schools in these cases were—or soon would be—receiving substantially equal treatment so far as "tangible" factors were concerned. Therefore, said Warren, the Court must look at the "effect of segregation itself on public education." That assessment could not be made by turning the clock back to 1868 when the amendment was adopted or to 1896 when the Plessy decision was written.

"We must consider public education in the light of its full development and its present place in American life throughout the Nation," wrote Warren, "Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws."

The Court found that education was "perhaps the most important function" of state and local government, as evidenced by their compulsory attendance laws and considerable expenditures. Education, wrote Warren, was the foundation of good citizenship and the basis for professional training and adjustment to society.

"In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education," said Warren, adding that where the state had undertaken to make education available it must be available to all on equal terms.

The question is then, said Warren, "Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities?"

The Court's answer. "We believe that it does."

Observing that intangible factors were considered in finding the treatment accorded Sweatt and McLaurin unequal, Warren said:

"Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

This belief "was amply supported by modern authority," Warren asserted, citing in a famous footnote, seven sociological studies on the detrimental effects of enforced racial segregation.

Warren then stated:

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment."

In the District of Columbia case, considered separately from the other four because it involved a question of due process under the Fifth Amendment, Warren wrote:

"Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.

"In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government."

In both the state cases and the District of Columbia suit, the Court postponed its decision on a remedy for the school segregation until after the parties presented their views on that question.

ALL DELIBERATE SPEED

Among the issues the Court asked the parties to address in argument on appropriate remedies were:

Should the Supreme Court formulate a detailed decree in each of the five cases, and if so, what specific issues should be addressed?

Should the Court appoint a special master to take evidence and then make specific recommendations to the Court on the contents of the decrees?

Should the Court remand the cases to the lower courts to fashion the decrees, and if so, what directions and procedural guidelines should the Supreme Court give the lower courts?

Should black pupils be admitted to schools of their choice "forthwith" or might desegregation be brought about gradually?

In addition to hearing from the parties involved in the five cases, the Court invited the Eisenhower administration and all the states that required or permitted segregated public schools to submit their answers to these questions. The administration, Florida, North Carolina, Arkansas, Oklahoma, Maryland, and Texas accepted the invitation and participated in the oral argument in April 1955. Several other states declined the invitation.

On May 31, 1955, Chief Justice Warren announced the Court's final decision in an opinion commonly known as Brown II, to distinguish it from the 1954 decision. Warren first noted that the District of Columbia and the school districts in Kansas and Delaware had made substantial progress toward desegregation in the year since the first Brown decision was handed down but that Virginia and South Carolina were awaiting the Court's final decision before acting. He then moved to the heart of the matter:

"Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal. Accordingly, we believe it appropriate to remand the cases to those courts.

"In fashioning and effectuating the decrees, the courts will be guided by equitable principles. . . . At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.

"While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases."

Desegregation of public schools, Warren concluded, was to proceed "with all deliberate speed."

REACTION AND RESISTANCE

Reaction to the two Brown decisions was immediate.

At one extreme were those committed to segregation as a way of life. They castigated the Court, called the decisions a usurpation of state prerogatives, and urged defiance. The height of the rhetoric opposing the Brown decisions may have been the March 1956 "Declaration of Constitutional Principles," a tract signed by 101 of 128 members of Congress from eleven southern and border states. The signers called the Brown decisions "a clear abuse of judicial power," and commended those states that intended a "resist enforced integration by any means."

At the other end of the spectrum were those who hailed the demise of the "separate but equal" doctrine as long overdue but felt that the Court seriously erred in Brown II by not ordering immediate desegregation. Many found themselves somewhere in the middle, unhappy with the command to desegregate but unwilling to defy it.

Massive resistance—a phrase coined by Virginia senator Harry F. Byrd, D (1933–1965)—did not begin in earnest until late 1955 and early 1956.

Relieved that the Court had not ordered immediate desegregation, many southern leaders opposed to desegregation apparently presumed that lower courts would ignore or otherwise delay implementation of the Brown decisions. By January 1956, however, nineteen lower courts had used the Brown precedents to invalidate school segregation and, as historian C. Vann Woodward characterized it, "[s]omething very much like panic seized many parts of the South . . . a panic bred of insecurity and fear." White citizens councils, created to preserve segregation, spread throughout the South. The NAACP was barred from operating in some states. And many state and local officials sought ways to delay desegregation in the schools.

Official resistance took three main paths. Several states enacted "interposition" stat-

utes declaring the Brown decisions of no effect. Mississippi and Louisiana also passed laws claiming that the decisions did not affect the states' execution of their police powers and then requiring school segregation in order to promote public health and morals and preserve the public peace.

Several states also adopted superficially neutral laws that resulted in separation of pupils by race. Among these types of statutes were laws that assigned pupils to specific schools and classes on the basis of their scholastic aptitude and achievement. Since black children had rarely received adequate educations, they were thus easily isolated.

Another tactic was to allow pupils to attend any public school (of the correct grade level) they chose. Few blacks had the courage to attend hostile white schools, and even fewer whites chose to attend black schools. Some states barred public funds to any school district that integrated; others permitted public schools to close rather than to accept black children.

In some instances, compulsory attendance laws were repealed and in still other cases states and localities allocated public funds to private segregated schools. Many states employed more than one of these methods to perpetuate segregation in the public schools.

BROWN AS PRECEDENT

Adverse reaction to the desegregation decision did not deter the Court from applying it to other areas of life. In 1955 the Court ordered the University of Alabama to admit two blacks to its undergraduate program. In March 1956 the Court in a per curiam opinion declared in Florida ex rel. Hawkins v. Board of Control that it would not permit institutes of higher education to delay desegregation. Beginning with the 1954 case of Muir v. Louisville Park Theatrical Assn., the Court, in brief orders that cited Brown as authority, struck down the separate but equal doctrine as it applied to state-imposed segregation of public places, such as parks, and vehicles of interstate transportation.

RESISTANCE REBUKED

In 1958 the Court first addressed the problem of massive resistance. The occasion was the case of Cooper v. Aaron, in which Arkansas officials openly defied the Court's order to abandon segregation.

Less than a week after the Supreme Court struck down the separate but equal doctrine, the Little Rock school board announced its intention to develop a desegregation plan for the city schools. One year later—a week before the Court announced its decision in Brown II—the school board approved a plan that called for gradual desegregation beginning with Central High School in the fall of 1957. Meanwhile, the state adopted a constitutional amendment commanding the legislature to oppose the Brown decisions. In response, the state legislature enacted a law permitting children in racially mixed schools to ignore compulsory attendance laws.

On September 2, 1957, Governor Orval Faubus sent units of the Arkansas National Guard to Central High to prevent nine black students scheduled to attend the school from entering. Obeying a federal district court order, the school board proceeded with its integration plan and on September 4 the nine students tried to enter the school, only to find their way blocked by guardsmen standing shoulder to shoulder, along with a mob of hostile onlookers. This situation prevailed until September 20, when Faubus decided to obey a court order and withdraw the troops.

On September 23, the black students entered the high school but were quickly removed by police when a mob outside grew unruly. Two days later, President Dwight D. Eisenhower sent federal troops to protect the blacks as they entered and left the school. Federal troops remained there until November 27, when they were replaced by federalized national guardsmen who remained for the duration of the school year.

In the face of both official and public hostility to its desegregation plan, the school board in February 1958 asked the district court for permission to withdraw the black students from Central High and to postpone any further desegregation for two and a half years. Finding the situation at Central intolerable, the court agreed to the request. An appeals court reversed the decision, and the school board appealed to the Supreme Court

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[From the CONGRESSIONAL RECORD, Aug. 30, 1967]

EXHIBIT 1

HUMAN RIGHTS—CIVIL RIGHTS: FROM THEORY TO PRACTICE

(Remarks by Hon. Thurgood Marshall, Solicitor General of the United States before the Law Day Luncheon, University of Miami, Miami, Fla., April 27, 1966)

The President of the American Bar Association set the theme for Law Day—1966 as follows:

"Our nation will celebrate in 1966 two notable milestones in the life of our republic. One is the 175th anniversary of the Bill of Rights. The other is the 190th anniversary of the independence of the United States.

"It is appropriate that on May 1 we also will be celebrating Law Day USA with the theme: 'Respect the Law—It Respects You'."

* * * * *

In discussing this theme I shall dwell on what I consider to be paramount: "Human Rights—Civil Rights" and more particular "From Theory to Practice."

Save for Viet Nam and the drive for peace throughout the world, public opinion—professional and lay—is focused on the so-called Negro revolution in the United States and the War on Poverty. Indeed, all three are part of the same cloth. Our world leadership and the struggle for peace is evaluated and re-evaluated by democracy as it is practiced at home. We can never explain away our mistreatment of minorities. Whether because of race or lack of financial affluence.

Recent demonstrations ranging from the peaceful Selma march to the violent riots in Los Angeles, California, are dramatic enough to cause all to pause and seek out the causes and inevitable solution. Then, too, our present judicial processes including the present method of jury trials in the South—indeed our entire judicial system needs more careful study. Whichever way you look at it, we must seek the removal of all barriers in American life which are based on minority status whether racial or financial, or both.

Since the oldest and most consistent example of mistreatment of minorities has focused upon Negroes, a fair understanding of our present problem requires a glimpse into the past. Being a constitutional democracy we first look to our basic statutory structure. Beginning with the Declaration of Independence we remember that Jefferson sought to have slavery condemned in the Declaration of Independence. He was unsuccessful. Secondly, the constitution of our government expressly recognized savory and gave legal support to it.

It should also be borne in mind that by that time the status of Negro Americans was being crystallized. In fact, two worlds were being set up within the same democracy.

During the early part of the 19th century, despite the great drive of abolitionists and others, there was always the recognition of the so-called inferiority of the Negro—even the free Negro. There were instances of refusal of admission of Negroes to abolitionist meetings.

All of this was brought about by the propaganda of many southerners, especially the southern professors. These men, for the sole purpose of continuing slavery, managed to convince others that scientific studies actually proved the inferiority of Negroes, and it had its effect.

After the Civil War, Congress made its first efforts toward removing state imposed racial discrimination by passing the proposed Fourteenth and Fifteenth Amendments and the Civil Rights Acts. The obvious purpose was to make Negroes equal citizens entitled to federal protection of their civil rights. The supreme effort in the Civil War, the rough struggle to get the bills through Congress and the urgency of expanding our country to the West Coast exhausted the liberals and the struggle for protection of the Negroes was abandoned after the Reconstruction Era.

The executive branch of government never had any intention of moving in. Finally, the Supreme Court with its decisions in the Civil Rights Cases (1883) and *Plessy* v. *Ferguson* (1896) were interpreted as final abandonment of efforts of the federal government to protect the civil rights of Negroes. The states resumed much of their pre-war practices of deliberate racial discrimination. Now we had the two worlds within the one world of citizenship. This was true—whether by law in the South or by practice in the North. Or, to put it another way, whether by action of the states or inaction by the federal government, they both recognized two classes of citizens divided by color—two worlds within one.

And, so it was until the 1930's.

Neither the Executive nor the Legislative branches of the Federal Government could be persuaded to move. However, the federal courts found a way to fill the vacuum. Through its power of invalidation of state law, the Supreme Court has wrought fundamental changes in the structure of our society. My point can best be made through example, and I chose the example of *Brown* v. *Board of Education*. So much has happened in the decade since the decision, and people's expectations have risen, quite justifiably, at such an accelerated pace, that we often lost prospective. Yet just twenty-five years ago most Negroes lives were constricted by a whole series of state-imposed and state-fostered laws and regulations designed to foreclose them from participating in the political process and to prevent them from attaining any sort of social or economic equality. In the last decade, however, there has been a massive assault on this citadel, and today we find the legislature, the executive and the general populace joining, and to some extent directing the assault.

What crumbled was not merely a network of legal rules; it was a whole social system bent on keeping the Negroes in a position of inferiority, a social system which relied on and was inspired by the Jim Crow laws. Segregation was constitutionally condemned, and it was thus stripped of all moral predicates. For Americans view the constitution as a set of moral commands, guides to civilized communal living, not just technical and specialized guides to good government. In this struggle for racial equality the Supreme Court served, at least in 1954, as a voice not of contemporary opinion but of communal conscience, or in Chief Justice

Hughes' earlier characterization, as "teachers to the citizenry."

The contrast between this use of the power of invalidation and that which confronted the early welfare and New Deal legislation has often been drawn; but the essential distinction can also be expressed in terms of the concept of social change. In the first half of the twentieth century the power of invalidation was too often used to frustrate recently enacted legislation designed to effect a wholesale change in the social order; yet *Brown* v. *Board of Education*, and its progeny, initiated and required social change. History has judged the first use of this power of invalidation to be misconceived, while it will surely vindicate the latter. The difference is not hard to explain. The Supreme Court's leadership in the struggle for racial equality stems from two profound insights: first, the status quo had fallen short of a central constitutional ideal, the egalitarian ideal, and secondly, all other societal institutions, especially the more representative institutions, refused to assume a major responsibility in working toward the realization of this ideal. With the welfare legislation, on the other hand, these justifications did not exist: no central constitutional ideal was threatened, and there was no default on the part of the other societal institutions.

This contrast reveals two conditions that justify transforming the power of invalidation, spawned in a more modest context, into an active instrument of social change—an established social pattern that threatens a central constitutional ideal and a default by other societal institutions. The point to be made, however, is not purely an academic one. It suggests to me that the curtain has not, and should not come down, on the Supreme Court's active engagement in the process of social change, of requiring that our social living conform to our social ideals. Recent voting legislation might lessen the burden on the courts in the struggle for racial equality, and other federal legislation might provide much of the long overdue reform. Yet on the constitutional horizon there looms the problems of the large metropolitan ghettos, both a product and a cause of the fears and prejudices of our generation, and the massive injustices inflicted on the poor; the "other America" is still with us. The hope is not that the Supreme Court will singly take up the burden of eliminating these injustices through requiring further reform, but that the other social and political institutions will make it a joint enterprise, if not their special responsibility.

The object was to insure that basic human values were not violated by state law enforcement officials in the course of, or in the name of, administering state criminal-law. If the ordinary citizen came in contact with law enforcers they were usually representing the non-federal levels of government. While, hopefully, only a minority of the population would come in contact with law enforcers, this enterprise could hardly be considered specialized; as a logical proposition all the citizenry was susceptible to the abuses, for it was impossible to insure against being included in the minority, and the enforcement of the criminal laws is one of the most direct or immediate confrontations between the individual citizen and the state.

The Supreme Court's involvement in reforming our criminal processes began thirty years ago, and it has continued down to the present, with ever greater intensity. The brush strokes have been getting broader and broader, and the result has been, in my opinion, to remove anachronisms which have no place in our society. Guaranteeing the right to counsel and protecting the personal rights of the Fourth and Fifth Amendments through the imposition of exclusionary rules have been among the more significant changes. There is little point to turning this address into a refresher course by summarizing these developments; but I would like to analyze them on a more institutional level.

We often lose sight of the fact that courts have traditionally engaged in this type of reform. The quality of the judicial process has always been the special province and special responsibility of the courts. Even where other institutions, such as the legislature, have participated in this reform, it has usually been as a response to judicial promptings. For example, those protesting against the imposition of the new exclusionary rules often overlook the hearsay rule, a massive judge-created exclusionary rule designed to protect less worthy interest than constitutional rights. Of course, there is a vital distinction. Traditionally the judicial reform of the judicial process has been initiated and effectuated by the courts whose process was being challenged; here the reform has emanated from the federal courts, which some would like to view as the courts of another, through supervening, jurisdiction.

There is one unique facet to this reform. The constitutional principle upon which these decisions are based, the principle that no individual shall be deprived of his life or liberty without due process of law, is an evolutionary principle—its contours change with the gradual evolution of our communal values. The process that is due in the next generation is not necessarily the one afforded in this. This fact gives judges more freedom of decision than is usually permitted under the doctrine of stare decisis, but on the other hand, it can confront judges with a delicate and torturous problem, one that confronted me on more than one occasion during my judicial career—how can you gauge this evolution, how can one be sure that he is remaining sensitive to this evolution without overstepping it? This fact also means that under the Due Process Clause there is infinite possibility of reform. The courts cannot rest in their vigilance, they can never be sure that its engagement of reforming the criminal process has been completed. Even though, as a national proposition, we have moved a long way from those initial outrages perceived in Brown v. Mississippi and Powell v. Alabama, gross imperfections still remain, if the standard of judgment is contemporary communal values. Pre-arraignment procedures in the station house; bail; pretrial publicity; the right to a speedy trial; pretrial discovery; the admission of evidence dealing with the accused's prior criminal record; the right to counsel in specialized proceedings, such as collateral attacks, commitment proceedings, and revocation-of-parole proceedings. These are just some of the areas that will come under particular scrutiny in the years to come, and the areas in which radical reform will take place.

This is not just a prediction, it is an invitation to all to join in this task of reform. The Supreme Court's extraordinary posture of leadership in reforming the criminal process can in part be attributed to a serious default by other institutions, and it seems to me that the time has come when the burden must be shared. Sharing the burden will add to the resources that can be used in this enterprise; it will tend to gain a more popular backing for the reform when the reform is initiated by institutions closer to the citizenry, such as local courts and local legislatures; and many of these institutions may be able to implement these reforms in a manner that is more flexible than that usually exercised by the judiciary. To be sure, this is not only an invitation to the local courts and local legislatures—it is also addressed to all members of the bar and the public at large. Through their professional associations lawyers can initiate and press for this reform, and each lawyer engaged in a criminal trial, whether as prosecutor or defense counsel, possesses a special responsibility and power—the power of self control—to insure that the trial conforms to our highest traditions of fairness and justice. Public opinion should insist on this.

The Supreme Court's involvement in the process of social change, through protecting the right to criticize the status quo, invalidating laws and institutions, such as racial segregation, which fall short of central constitutional ideals, and reforming the criminal process provides part of the explanation why the Court has found itself in the center of an intense controversy. Some of the criticism flows from those whose material selfishness and self-satisfaction lead them to resist any change in the status quo with fury. They are not my concern here. There are others, however, whose criticism of recent Supreme Court doctrine stems from a more intellectual level. They are my concern. I am not referring to those who merely feel that the issue was a "close" one, that they would have decided the issue differently than the majority of the Supreme Court had. That kind of disagreement is the life-blood of the law; the vigor of such disagreement is an occasion to rejoice rather than despair. Instead my concern is with the intellectual or professional criticism that reflects a profound element of misunderstanding. It reflects a refusal to accept a new concept of law, to shake free of the nineteenth century moorings and to view law, not as a set of abstract and socially-unrelated commands of the sovereign, but as effective instruments of social policy. In recent decades the Supreme Court has transformed the law into an effective instrument of social policy, and the example par excellence is its involvement in the process of social change. The resistance to this transformation is the basis for much criticism and much misunderstanding. It seems to me more important to recognize this transformation, than to debate its propriety.

In recent years we have witnessed great strides toward bringing our every-day practices into line with our theories of Human Rights and Civil Rights. Under the leadership of the late President Kennedy and President Johnson the Executive and Legislative branches of our government have assumed their leadership in this struggle. The 1964 Civil Rights Bill and last year's Voting Rights Bill are setting the framework for guaranteeing the protection of basic civil rights for all Americans.

The War on Poverty and the several measures to provide adequate counsel to indigent defendants go a long way toward removing the bars of poverty.

The gap between theory and practice is being shortened but there is much to do. Much for all of us to do. Once a year we stop to evaluate our legal framework on Law Day. Too often we consider that sufficient to hold us for another year. We return to the old rut of "business as usual." Regardless of how much our government does or will do in the future, we will not close the gap until each of us makes Law Day for every day in

the year and each takes this as his individual personal responsibility.

JESSE JACKSON: MARSHALL "ONE OF THE GREAT LEGAL, MORAL MINDS"

(By David Beard)

MIAMI.—The Rev. Jesse Jackson said Thurgood Marshall protected all blacks and led a historic process that guaranteed minority rights and enabled two Southerners such as Bill Clinton and Al Gore to come to power.

Interviewed by The Associated Press at Miami International Airport upon his return from a weekend trip to Haiti, Jackson said he was stunned upon receiving the news of Marshall's death from heart failure Sunday.

"I knew he had been sick, but I was shocked to hear of his passing and numbed by the thought. * * * For most of us who grew up under segregation, we have never known a day without Thurgood Marshall hovering over us to protect us." Jackson said.

He lauded in particular Marshall's work as general counsel for the National Association for the Advancement of Colored People in the 1954 Brown vs. The Board of Education Supreme Court case that called for the desecration of schools.

Jackson said legal history can be defined as before and after Marshall's contributions to the court.

"Thurgood Marshall is one of the great legal, moral minds America has ever produced by his commitment and arguments for equal protection under the law. He led a legal movement to establish the character of America to prove its highest purpose.

"He led the drive to pull down the walls that separate American from American by law. The '54 Supreme Court decision paved the way for Martin Luther King Jr., it paved the way for a unified integrated military, it paved the way for America's reputation as leader of the free world.

And finally, Jackson said "it paved the way for two Southerners Clinton and Gore to run and to win.

Jackson spoke before boarding a flight to New York, where he would meet with black business and Haitian refugee leaders on Monday.

Over the weekend in Port-au-Prince, Jackson spoke with Haiti's army chief Lt. Gen. Raoul Cedras; Marc Bazin, who heads the military-backed government, and supporters of ousted Jean-Bertrand Aristide to turn up the pressure on restoring democracy.

Jackson said he was preparing a report for Secretary of State Warren Christopher on the visit and would speak with UN Secretary-General Boutros Boutros-Ghali.

NATION PAYS HONOR TO MARSHALL

(By H. Josef Hebert)

WASHINGTON.—Colleagues, politicians and scholars today mourned the death of Thurgood Marshall, the retired Supreme Court justice many said embodied the struggle for civil rights.

President Clinton said he was "deeply saddened" by Marshall's death from heart disease Sunday, calling the 84-year-old jurist "a giant in the quest for human rights and equal opportunity."

"Thurgood Marshall will be remembered as a leader, as a fighter, as a shepherd. This man was there when we needed someone to fight for civil rights," Rep. John Lewis, D-Ga., said today on "CBS This Morning." He was a wonderful man, he inspired people, he stood tall and he spoke in a strong voice."

Vernon Jordan, a civil rights leader who headed Clinton's transition team, called Marshall a friend and a mentor. He said he was a youngster when he first heard Marshall speak in Atlanta.

"It was a memorable, awesome experience," Jordan said on the CBS program. "It was at that point that I said I wanted to be a lawyer like Thurgood Marshall."

"He changed the law in our country * * * in a very fundamental way," the Rev. Jesse Jackson said this morning on ABC's "Good Morning America."

Marshall, the first black on the Supreme Court, retired in 1991 because of ill health after 24 years on the court, but some scholars and friends suggested he may be best remembered as the lawyer who argued the historic 1954 school delegation case and won.

"He was the greatest lawyer in the 20th century," said Laurence Tribe, a constitutional scholar and professor at Harvard Law School. "He was to the law what Mahatma Gandhi and Martin Luther King were to social issues."

Retired Chief Justice Warren Burger, who shared the bench with Marshall for 17 years, spoke of "his great career as an advocate, when he literally took his life in his hands to try civil rights cases in the South."

All of the current justices praised Marshall and singled him out for his leadership in using the law to gain equal rights for all Americans, including blacks.

"All of us who served with him were the better for his counsel and his friendship," said Chief Justice William H. Rehnquist, a conservative who often voted opposite from the liberal Marshall in court decisions.

Justice Sandra Day O'Connor called Marshall "a true American hero * * * (who) left behind a legacy of hope for racial equality."

And Justice Clarence Thomas, a black who succeeded Marshall on the bench, called him "a great lawyer, a great jurist and a great man. The country is the better for his having lived."

Retired Justice William J. Brennan, a fellow liberal and for years Marshall's closet friend on the court, said his "commitment to making the Constitution a vehicle to protect the equal rights of all has no match in American history."

"I shall miss him terribly," Brennan added.

Sen. Edward Kennedy, D-Mass., called him "a living embodiment of our nation's highest ideals" and said that Marshall "inspired the country to embrace the great principle of equal justice for every citizen."

"His work and his vision changed America," said Vice President Al Gore, adding that Marshall "moved us forward to a new understanding and a new commitment to civil rights and equal opportunity."

Praise poured in from leaders of the civil movement.

"For most of us who grew up under segregation, we have never known a day without Thurgood Marshall hovering over us to protect us," said Jackson. He lauded Marshall's leadership as general counsel of the National Association for the Advancement of Colored People in the 1950s, including his successful challenge to school desegregation.

Benjamin Hooks, the NAACP's executive director, said Marshall "changed the face of America for all time" in his successes as a civil rights lawyer and later as a justice.

"The nation has lost an invaluable and irreplaceable asset, one we will not see again in our lifetime," said Hooks.

Past colleagues and friends remembered Marshall not only for his intellect, courage and perseverance, but also for his humor, humility and zest for life.

"He was a warm, engaging, incredibly funny person," recalled David Wilkins, a law professor at Harvard who was a clerk to Marshall in the early 1980s. "He had a profound insight about life * * * He knew his place in history but he never let that get in the way."

Wilkins remembered Marshall often regaling listeners with stories about his experiences as a young civil rights lawyer, being chased out of towns in Mississippi and Alabama.

"He could tell a story that would have everybody in stitches. Yet when you walked away you would realize that he had made a profound point of life and how it ought to be lived," recalled Wilkins.

"He was courageous," remembered Enolia McMillan, 88, who worked with Marshall in the early days of the civil rights movement.

Bandleader Cab Calloway went to high school with Marshall in Baltimore and knew him for some 65 years. "He was a great man, there's no question about that," said Calloway. "He sacrificed himself for everybody and everything."

[From Mother Jones, November–December 1991]

THURGOOD AND ME

(By Roger Wilkins)

Fifty years ago, when I was nine, my father died, my mother moved us to New York, and I met Thurgood Marshall. He lived down the street on Edgecombe Avenue, the main artery of Sugar Hill. He was among a number of famous blacks who lived in the neighborhood: Kenneth Clark, Joe Louis, Duke Ellington, Paul Robeson. They all knew my uncle Roy Wilkins, who was an NAACP executive, my newly widowed mother, and her little boy.

Years later, I worked for Marshall briefly at the NAACP Legal Defense Fund. We were colleagues in the Department of Justice during the Johnson presidency; we were neighbors again in our government years and have remained good friends.

You don't have to know Marshall well to know he is a brave and brilliant and funny and compassionate and doggedly idealist man. More than any of the millions of other African Americans who have participated in contemporary civil-rights struggles, he embodies the essence of our advances in the twentieth century. And in his formidable person, he carries much that is best in the spirits of our people.

Marshall came from a segregated culture. He waited on white people before he had a law degree, when black waiters were called "George" and "boy." He not only remembers what all of that felt like, he has nurtured the "down-home" parts of his personality that come from that time. I have seen many aspects of that personality in the years since we first met.

Once, when we were both in the Justice Department in the sixties, I ask his advice on a risky policy proposal. "If you do that, Johnson's gonna kick you black butt from here to the Perdenales," Solicitor General Marshall opined. There was no need clarification of that recommendation.

Many years earlier, when he was still director-counsel of the NAACP Legal Defense Fund and I was a law student intern, Marshall, to my embarrassment, read my first memo in the crowded office library and announced to the staff, "This boy ain't as stupid as he looks."

Earthy humor and rough kidding haven't been Marshall's only tools. He also has guts.

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He went South in the thirties with my late uncle Roy to investigate conditions under which sharecroppers lived. They barely escaped from a bunch of Mississippi yahoos, who had figured out what they were up to. And Marshall would go anywhere in the dangerous South to try cases for the humblest black people in America.

Harry Briggs was such a man. He lived in a mean place, Clarendon County, South Carolina, in a mean time, late forties and early fifties. Harry Briggs was a gas-station attendant, the son of a sharecropper. Briggs wanted his children to have a better education than was provided in the segregated schools, and was brave enough to sue the whites who were in charge in order to change things. Marshall went to South Carolina to handle the case, and Briggs became a plaintiff in one of the cases that the Supreme Court would decide in 1954, *Brown* v. *Board of Education*.

It is on that set of cases, led and orchestrated by Marshall, that I rest my claim that he is the embodiment of our twentieth-century advances. Compare *Brown* with the Supreme Court decision in *Dred Scott v. Sandford*, decided ninety-seven years earlier. In *Dred Scott*, the distinguished chief justice, Roger Taney, made a careful examination of the original intent of the country's founders. He observed that at the time of the creation of the nation, blacks were rarely spoken of except as property and that it would have been utterly hypocritical of the founders to have included blacks in the meaning of their declaration that "all men are created equal." He concluded that blacks had no rights that "white men were bound to respect" and that blacks were not citizens.

In *Brown*, another distinguished chief justice, Earl Warren, in a decision based on the rights of black citizens under the Fourteenth Amendment, took a decisive step in banishing legalized segregation from our national life.

In the turbulent century between the two decisions, the Civil War was fought and blacks helped free themselves from slavery only to see the bright promises of the post-Civil War constitutional amendments rendered virtual dead letters by a vengeful South and a greedy and uncaring North. At the beginning of the twentieth century, blacks were, at best, semicitizens who were vulnerable to everything from racist terrorism in the South to whatever casual cruelties a prospective employer, a store clerk, or some sadistic law-enforcement officer felt like meting out on any particular day.

That's the world Marshall was born into, and it was the world into which he took his mind and his law degree, not to earn money and fame, but to do battle. And what a battle it was. By winning *Brown*, he and his colleagues did much to restore the intended protections of the post-Civil War amendments, and, in doing so, he used the full range of his remarkable talents.

This is an example of how he worked. One Friday night in the late fifties, when I didn't even work for him anymore, my wife and I were invited to his home for dinner. When we arrived, Cissy Marshall told me that Thurgood wanted me in the den, urgently. He had just found out that one of the lawyers in the office had filed a defective appeal to the Supreme Court. An immediate after-hours remedy had to be fashioned, or the appeal would be dismissed.

Thurgood had initiated a round of nonstop phone calls to opposing lawyers, a justice, and court clerks. He motioned for me to crawl around through the clutter of books scattered all over the floor and research the problem while he stalled for time using his wit, wisdom, and humor. It took more than three hours of his talking and my researching, but he inhaled the law I found, made the points superbly, and perfected the appeal. Then, around midnight, we went in and had dinner with our wives.

As this century ends, we blacks are still a long way from home in many senses of the phrase. But the twentieth-century battle in the context of a multicentury struggle to regain the full range of our humanity required that we be protected by a framework of legal rights in the country that we did so much to build. The task was to secure a legal beachhead from which to press forward on political, social, cultural, economic, and intellectual fronts. Though we are under fierce counterattack, the new battles are being pressed by people who have rights, self-confidence, and places in society that would have been hard to imagine when the century began.

It is surely hard to imagine our controlling the ground we now have if Thurgood Marshall had not fought his battles so bravely and so well.

MARSHALL MOURNED, REMEMBERED IN WASHINGTON STATE

(By Elizabeth Weise)

SEATTLE.—The likes of Thurgood Marshall may never sit on the Supreme Court again, the local president of the National Association for the Advancement of Colored People said.

"He was a 'once in a lifetime,'" said Lacy Steele, who also serves on the NAACP national board. "The nation has lost one of the premier Supreme Court justices and an attorney who set history in the annals of law. There has been a great void left by his passing."

Marshall, who retired from the Supreme Court 18 months ago because of his age and poor health, died Sunday of heart failure at Bethesda Naval Hospital outside Washington, D.C. He was 84.

Lyle Quasim, Pierce County chairman of the Ethnic Minority Advocacy Commission, was among those on Sunday mourning the passing of the high court's first black justice. Quasim said he didn't know what he would have achieved without Marshall's early leadership in courtroom civil rights battles.

"That's God's honest truth. I'm sitting here in Tacoma with a nice house and three degrees and a good job, and were it not for the work of people like Justice Marshall, none of it would be possible," Quasim said.

"We have millions of Americans, African-American kids in particular, who don't know what happened in the early civil rights movement," he said. "We can take this as an opportunity to re-educate about the tremendous changes that time had upon our country."

Marshall was "a national treasure," said Louise McKinney, 62, director of academic achievement for the Seattle School District.

Even after Marshall argued the 1954 *Brown* v. *Board of Education* ruling that desegregated public schools, it was years before school districts began hiring black administrators, McKinney said.

"So there are many of us who may not realize it, but we have our jobs because of the work Justice Marshall did," she said.

"In our hearts and minds, he represented everything that had to do with civil rights. His passing represents the end of an era," McKinney said. "His memory is a mandate for us to continue that work, because it is not the responsibility of an individual, but of us all."

Oscar Eason, 58, regional director for Blacks in Government, said he felt dwarfed by the presence of Marshall on the two occasions they met.

"Some of the cases he argued at the Supreme Court were monumental. Law students today study his cases as fundamental to an understanding of civil rights law," Eason said.

"Thurgood was one of the all-time greats," he said,. "We're going to miss him."

Eason said that when he begins to question what he's doing after six to eight hours of community service on top of his regular job, "I think of the work and sacrifices of people like Thurgood Marshall and I know."

[From the Washington Post, Jan. 25, 1993]

THURGOOD MARSHALL, RETIRED JUSTICE, DIES

(By Joan Biskupic)

Retired Supreme Court Justice Thurgood Marshall, a relentless voice for minorities whose six-decade legal career was emblematic of the civil rights revolution, died yesterday of heart failure.

He was 84 years old and had been retired since June 1991. Marshall had been in failing health in recent months. He died at the National Naval Medical Center in Bethesda, where he had been since Thursday. He had planned to administer the oath of office to Vice President Gore last Wednesday, but could not because of his condition.

Marshall, who was born in Baltimore the son of an elementary school teacher and yacht-club steward, went on to become one of the most important figures in civil rights history, first as a lawyer for the National Association for the Advancement of Colored People (NAACP) and then as the first black Supreme Court justice. He was known for both his sense of humor and his impatience over the ongoing struggle of blacks in America.

"He was somebody who had absolutely no sense of his own importance," said Louis Michael Seidman, a former Marshall clerk who is now a Georgetown University constitutional law professor. "He held an unusual combination of reverence for the American justice system and a realization that his people were excluded."

In 1967, President Lyndon B. Johnson appointed Marshall to the court. During his 24-year tenure, he was the only black justice. He was replaced by Clarence Thomas, also a black man, but one who adopted a judicial approach that is the opposite of Marshall's liberalism.

Marshall's record on the court was consistent: Always the defender of individual rights, he sided with minorities and the underprivileged; he favored affirmative action and supported abortion rights; and he always opposed the death penalty.

But he was not the liberal leader that retired Justice William J. Brennan Jr. once was. He did not strive for consensus, and as a result was the author of few significant majority opinions.

In a statement, President Clinton said Marshall was one of the giants "in the quest for human rights and equal opportunity in the whole history of our country."

Chief Justice William H. Rehnquist said Marshall will be remembered as much for his work before coming to the court as afterward, for "his untiring leadership in the legal battle to outlaw racial discrimination."

Before Marshall joined the court, he had distinguished himself as the country's first

black solicitor general, serving in that post from 1965 to 1967 and taking a lead in promoting the Johnson administration's civil and constitutional rights agenda.

Marshall came to national prominence as the chief lawyer for the NAACP Legal Defense and Educational Fund, when he argued a series of 1954 school desegregation cases known collectively as *Brown* v. *Board of Education*. The Supreme Court ruled in those cases that segregation in public schools was unconstitutional.

As a lawyer, Marshall also spearheaded litigation that ended white-only primary elections and explicit racial discrimination in housing contracts.

His greatest cause was defendants' rights, and when he left the court two years ago, he was the last of the justices to oppose the death penalty.

People close to him said frustration with the court's conservative turn in recent years prompted his retirement.

But at a news conference at the time, Marshall blasted suggestions that his retirement stemmed from anger about the future of the conservative-dominated court.

"What's wrong with me?" Marshall said impatiently. "I'm old. I'm getting old and coming apart."

Such was the style of a man who could be eloquent or, when he wanted, slip into slang and black dialect. When he was asked what he was going to do in retirement, he said, "Sit on my rear end."

He was 6-foot-2, a physically imposing man who always appeared to be coming out of his black robes, and had a distinctive gravelly voice. He said he wanted to be remembered this way: "That he did what he could with what he had."

Marshall's roots were unlike those of any other justice before him.

He was born July 2, 1908. The great-grandson of a slave brought to America from Africa's Congo region, Marshall was named after a paternal grandfather, who had chosen the name "Thorough Good" for himself when enlisting in the Union army during the Civil War. Marshall later changed it to Thurgood.

His mother was an elementary school teacher and his father a steward at an all-white yacht club on the Chesapeake Bay.

Marshall attended Douglas High School in Baltimore, working as a delivery boy for a women's store after school.

He later confessed to having been a bit of a cutup in high school and college. He recalled that in high school he often was punished by being sent to the basement and forced to memorize "one paragraph of the Constitution for every infraction. . . . In two years, I knew the whole thing by heart," he said.

Marshall attended the all-black Lincoln University in Pennsylvania, earning money for tuition by waiting tables.

He obtained his law degree from Howard University in 1933, graduating first in his class.

Marshall attributed his interest in law to "arguing with my dad. We'd argue about everything." He also credited his father with instilling in him a fighting spirit. "Son," he once recalled his father saying, "if anyone ever calls you a nigger, you not only got my permission to fight him, you got my orders to fight him."

Marshall remembered carrying out those orders one time when, as a delivery boy, he accidentally brushed against a woman on a Baltimore trolley car because he couldn't see over a stack of hat boxes he was carrying. A white man called him "nigger" and Marshall took him on.

Marshall began practicing law in Baltimore after graduating from Howard. One of his first civil rights cases was a successful effort to gain admission for a young black man to the University of Maryland Law School.

Three years later, he was hired as an assistant to the national counsel for the NAACP and two years later became chief counsel.

In late 1939, he created the NAACP Legal Defense and Educational Fund, and as its head from 1940 to 1961 he worked within the legal system to improve minority rights.

Traveling around the country, he won dozens of civil rights victories. He recalled in recent years how he was often run out of town by whites who despised his work for black liberation.

Marshall won all but three of the 32 cases he argued before the Supreme Court, including the 1954 *Brown* ruling. That landmark decision ended "separate but equal" school systems. He achieved *Brown* through a series of court cases over several years, methodically dismantling the foundations of segregation.

He also was at the lead in the integration of the Little Rock, Ark., Central High School in 1957, as well as crafting successful legal arguments against poll taxes, racial restrictions in housing and white primary elections.

In 1961, President John F. Kennedy selected Marshall for the U.S. Court of Appeals for the 2nd Circuit. The nomination initially was opposed by southern Democrats in the Senate, who claims he lacked legal qualifications for the job. But Marshall was approved several months later, becoming the second black judge to sit on the 2nd Circuit.

Marshall served on the appeals court until 1965, when Johnson appointed him solicitor general of the United States, the government's top lawyer at the Supreme Court, Johnson had several civil rights victories at the court while Marshall was solicitor general, including high court approval for the 1965 Voting Rights Act.

Marshall also provided the government's backing to a case that led to the overturning of a California constitutional amendment prohibiting open housing legislation.

On June 13, 1967, at 11 a.m., Marshall called his wife, Cecilia, from the White House. "Take a deep breath and sit down slowly," he reportedly told her. Then Johnson's voice came on the line and told her Marshall had just been nominated to the Supreme Court.

The Senate confirmed Marshall 69 to 11 on Aug. 30, 1967, making him the first black justice in the court's 178-year history. He faced criticism from only a few southern senators, who attacked his "activist" temperament.

But Marshall was to join like-minded brethren. The court was then led by Chief Justice Earl Warren, who already had begun a judicial and social revolution.

Through the 1970s, Marshall was more regularly a steady vote for the opinions of liberal-leaning justices than author of major opinions himself.

In 1972, when the court struck down capital punishment as it was then being practiced, he wrote one of the most definitive statements on the death penalty:

"Death is irrevocable. Life imprisonment is not. Death, of course, makes rehabilitation impossible. Life imprisonment does not. In short, death has always been viewed as the ultimate sanction. . . . In striking down capital punishment, this court does not malign our system of government. On the contrary, it pays homage to it. . . . In recognizing the humanity of our fellow beings, we pay ourselves the highest tribute."

In that landmark ruling, *Furman v. Georgia*, the court set out procedural safeguards that states must follow if they wish to impose the death penalty, and since then a majority of the states have reinstituted capital punishment.

It was to be Marshall's dissents, particularly in death penalty cases, thundering with indignation, that gained most attention. He was suspicious of police searches and interrogation. He took a similar liberal tack in other areas, disdaining restrictions on speech, government expenditure benefiting religion and the weakening of environmental regulations.

In a partial concurrence in *University of California Regents v. Bakke* that endorsed a broader remedial use of race-conscious programs, he wrote in 1978: "It must be remembered that, during most of the past 200 years, the Constitution as interpreted by this court did not prohibit the most ingenious and persuasive forms of discrimination against the Negro. Now, when a state acts to remedy the effects of that legacy of discrimination, I cannot believe that this same Constitution stands as a barrier.

"At every point from birth to death, the impact of the past is reflected in the still-disfavored position of the Negro. In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order. To fail to do so is to ensure that America will forever remain a divided society."

Legal scholars say that Marshall's most important doctrinal contribution likely came in a dissent to the 1973 *San Antonio Independent School District* v. *Rodriquez*. In that Texas case a five-justice majority said an education is not a fundamental right guaranteed by the Constitution.

In an opinion by Lewis F. Powell Jr., the court said the constitutional guarantee of equal protection does not require that courts apply the strictest level of scrutiny to state decisions on how to finance public schools.

Marshall favored a different standard for determining whether state or federal laws violated equal protection guarantees, and his sliding scale approach influenced the court in later years to give greater scrutiny to government decisions and more broadly read equal protection guarantees.

In the years closer to his retirement, Marshall increasingly assumed a defensive role.

Until his close friend Brennan retired in 1990, it was just the two of them who would dissent from any decision that would lead to the execution of a defendant. He considered the death penalty immoral in principle and discriminatory in application.

"I'll never give up," he said in an interview in December 1983. "On something like that, you can't give up and you can't compromise. It's so morally correct."

On the day he resigned—June 27, 1991—Marshall fired a parting shot that embodied his vigilance for criminal defendants and minorities generally.

It was in a dissent in *Payne v. Tennessee*, a case in which a narrow majority upheld the use of "victim impact" statements in death penalty cases, overruling two earlier cases that had prohibited such evidence from being introduced.

Marshall believed that the focus on a victim's character and his family's suffering would shift jury attention from whether the defendant was guilty to the victim's character and be difficult for the defendant to rebut.

Objecting to the conservative majority's overturning of precedent, Marshall wrote, "Tomorrow's victims may be minorities, women or the indigent. Inevitably, this campaign to resurrect yesterday's 'spirited dissents' will squander the authority and legitimacy of this Court as a protector of the powerless."

Marshall's overall health and his eyesight began to deteriorate in recent years. He had had a heart attack in 1976. He wrote fewer opinions and appeared to have difficulty reading from the bench the ones he did write.

He was hospitalized in 1987 with a blood clot in his right foot, and had been in and out of hospitals since.

But he never lost any of his exuberance.

Shortly before Marshall retired, Justice Byron R. White quipped to a law clerk, "In my 25 years here, Justice Marshall has told 1,000 stories and never the same one twice."

And friends say Marshall never forgot that he was black.

In his 1991 farewell news conference, he was asked whether he considered blacks, in the words of the Rev. Martin Luther King Jr., "free at last."

"Well, I'm not free. All I know is that years ago, when I was a youngster, a Pullman porter told me that he had been in every city in this country . . . and he had never been in any city in the United States where he had to put his hand up in front of his face to find out he was a Negro. I agree with him."

Marshall's first wife, Vivian Burney, died in February 1955. He married Cecilia A. Suyat in late December of that year. He is survived by his wife, Cecilia, and their two sons, Thurgood Marshall Jr. and John William Marshall, all of Northern Virginia.

[From the Washington Post, Jan. 25, 1993]

MARSHALL TRANSFORMED NATION IN THE COURTS

(By Martin Weil and Stephanie Griffith)

Retired Supreme Court Justice Thurgood Marshall was remembered last night as one of this century's titans, a unique figure who changed a nation by his decades-long legal battles to overturn segregation and to win justice for all Americans.

"He was a giant in the quest for human rights and equal opportunity" and "every American should be grateful" for his contributions, President Clinton said in a statement.

Harvard Law School professor Laurence Tribe, a constitutional scholar, called Marshall "the greatest lawyer in the 20th century." Del. Eleanor Holmes Norton (D-D.C.) said he was a man whose many roles over a long legal career placed him "in a class by himself."

Marshall, 84, who died yesterday at National Naval Medical Center in Bethesda, was hailed both for his work on the court and for his earlier career as a federal appeals court judge, as solicitor general and as the lawyer for the NAACP Legal Defense and Educational Fund who won the 1954 Supreme Court decision declaring school segregation unconstitutional.

Government officials, civil rights leaders, and friends praised Marshall as a dedicated, courageous and inspiring advocate who used the law to make reality of the American dream.

"He gave the Constitution the power the framers articulated but did not practice, that Lincoln affirmed but did not perfect," said "Rep. Kweisi Mfume (D-Md.), chairman of the Congressional Black Caucus.

"There is not an American alive whose life has not been touched by this man's 60 years of fighting for an America in which both the little guy and the powerful guy have the same access to justice," said Carl T. Rowan, a columnist and Marshall biographer.

In addition to the nation's 8,000 black elected officials, who owe their opportunities in part to Marshall's efforts, his beneficiaries include prisoners on death row, women and the poor, Rowan said, adding, "He was simply a towering figure."

"He stood up to the white power structure to give freedom and opportunity to black people across the country," said Karen Hastie Williams, a former law clerk for Marshall who described him as her godfather and "a mentor and an inspiration."

In the days of segregation, she said, he gave hope "that was phenomenal" to people suffering under its restrictions.

"People who didn't know how to read and write, who didn't even know who the president was, knew who Thurgood Marshall was," she said.

D.C. Mayor Sharon Pratt Kelly said Marshall "understood that the system needed to be challenged to make it a more perfect Union."

Kelly, like Marshall a graduate of Howard University law school, called him "an inspiration to all of the Howard law family and future lawyers who followed him."

In separate statements, Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) and Kurt L. Schmoke (D), mayor of Baltimore, where Marshall was born, each described him as a personal inspiration. Schmoke, his city's first black mayor, called himself "a beneficiary" of Marshall's work in civil rights.

Praising Marshall as a "great humanitarian" and American, Virginia Gov. L. Douglas Wilder (D) cited his "irrepressible quest for the rights of all Americans to be free."

"He was a very compassionate and a thoroughly dedicated individual," said retired judge Spottswood W. Robinson III, who sat on the U.S. Court of Appeals for the District of Columbia.

Robinson, who first met Marshall more than 50 years ago, recalled him as a "dear friend" and "thoughtful person" who "devoted his entire professional life to the betterment of people everywhere.

Sen. Alan K. Simpson of Wyoming, the ranking Republican on the Senate Judiciary Committee, remembered Marshall's courage and his good-humored vitality.

As a lawyer for the NAACP, traveling the South in the days of segregation, he "had been on the front lines," Simpson said. "He laid himself on the line." Though many in Washington may talk about those days, Simpson said, Marshall "laid his old bod' right down in it."

"He was a real hero to most modern American lawyers," said Tallahassee, Fla., lawyer Sandy D'Alembert, a former president of the American Bar Association.

As did others who had met Marshall, D'Alembert remembered the justice's fund of stories of the old days, traveling through the South where it was hard for a black man to find a place to sleep or buy a meal.

"He told those stories just to remind people of what he had been through and how far we had come," D'Alembert said.

And many pointed out yesterday that how far the nation has come is due in great measure to Marshall's legal struggles.

He "changed the history of America for the better, first as the lead attorney for the civil rights movement in the critical years and then on the highest court in the land," said Sen. Harris Wofford (D-Pa.).

Retired chief justice Warren E. Burger praised Marshall both for his advocacy in Brown v. Board of Education, which ended school segregation, and as a man who before going on the bench "literally took his life in his hands" to try civil rights cases in the South.

Chief Justice William H. Rehnquist remembered in particular Marshall's "untiring leadership in the legal battle to outlaw racial discrimination." Justice Clarence Thomas, who replaced Marshall on the high court, called him "a great lawyer, a great jurist and a great man."

"He set the standard for present and future judges to follow," Sen. Patrick J. Leahy (D-Vt.), told the Associated Press.

Sen. Edward M. Kennedy (D-Mass.) called Marshall "a living embodiment of our nation's highest ideals," according to the AP.

Calling Marshall an irreplaceable "national treasure," Jesse L. Jackson, an elected lobbyist for D.C. statehood, said his advocacy in the Brown case led to all subsequent civil rights laws.

"The world is a different place because he was here," said ABA President Mike McWilliams.

In Norton's case, it was her own life that was changed.

"I suppose those who feel Justice Marshall's death most are people like me who were sitting in segregated classrooms—in my case in D.C.—when Brown came down," she said.

"We're children of the civil rights movement," she said. ". . . His work made the civil rights movement possible."

Benjamin L. Hooks, executive director of the NAACP, endorsed that view. Marshall, he said, "was the author of much of the strategy that has resulted in African Americans' being represented in so many aspects of American life."

Washington lawyer Clifford L. Alexander Jr. joined Norton in saying that Marshall's death marked the end of a period in U.S. history. Many have speculated about when the civil rights era ended, Norton said.

Now, she said, she knows.

"It ended today."

[From the New York Times, Jan. 25, 1993]

EX-JUSTICE THURGOOD MARSHALL DIES AT 84

(By Linda Greenhouse)

WASHINGTON, January 24.—Thurgood Marshall, pillar of the civil rights revolution, architect of the legal strategy that ended the era of official segregation and the first black Justice of the Supreme Court, died today. A major figure in American public life for a half-century, he was 84 years old.

Toni House, the Court's spokeswoman, said Justice Marshall died of heart failure at Bethesda Naval Medical Center in Maryland at 2 P.M.

Justice Marshall, who retired from the High Court in 1991, had been scheduled to administer the oath of office to Vice President Al Gore on Wednesday, but his failing health prevented him from doing so.

Thurgood Marshall was a figure of history well before he began his 24-year service on the Supreme Court on Oct. 2, 1967.

During more than 20 years as director-counsel of the NAACP Legal Defense and Educational Fund, he was the principal architect of the strategy of using the courts to provide what the political system would not; a definition of equality that assured black Americans the full rights of citizenship.

LANDMARK TRIUMPH IN 1954

His greatest legal victory came in 1954 with the Supreme Court's decision in Brown

v. Board of Education, which declared an end to the "separate but equal" system of racial segregation then in effect in the public schools of 21 states.

Despite the years of turmoil that followed the unanimous decision, the Court left no doubt that it was bringing an end to the era of official segregation in all public institutions. Many questions lingered after so monumental a transformation, and the Court continued to confront issues involving the legacy of segregation even after Justice Marshall retired.

As a civil rights lawyer, Mr. Marshall devised the legal strategy and headed the team that brought the school desegregation issue before the Court. An experienced Supreme Court advocate by that time, he argued the case himself in the straightforward, plain-spoken manner that was the hallmark of his courtroom style. Asked by Justice Felix Frankfurter during the argument what he meant by "equal," Mr. Marshall replied, "Equal means getting the same thing, at the same time, and in the same place."

He won many other important civil rights cases, including a challenge to the whites-only primary elections in Texas. Because the candidates selected in the Democratic primaries almost always won the general election, this device was a common method by which white Southern politicians disenfranchised black voters.

He also won a major Supreme Court case in which the Court declared that restrictive covenants that barred blacks from buying or renting homes could not be enforced in state courts.

"HEROIC IMAGINATION' IN A RUTHLESS WORLD

Mr. Marshall, who was born and reared in Baltimore, was excluded from the all-white law school at the University of Maryland. Later he brought successful lawsuits that integrated not only that school but also several other state university systems. He received his legal education at the law school of Howard University in Washington, D.C., the nation's pre-eminent black university, where he graduated first in his class in 1933 and made the personal and intellectual connections that shaped his future career.

Years later, the University of Maryland named its law library for him, and the City of Baltimore honored him by placing a bronze likeness, more than eight feet tall, outside the Federal courthouse.

"To do what he did required a heroic imagination," Paul Gewirtz, one of Justice Marshall's former law clerks, wrote in a tribute published after the Justice retired from the Court.

The article by Mr. Gewirtz, the Potter Stewart Professor of Constitutional Law at Yale Law School, continued: "He grew up in a ruthlessly discriminatory world—a world in which segregation of the races was pervasive and taken for granted, where lynching was common, where the black man's inherent inferiority was proclaimed widely and wantonly. Thurgood Marshall had the capacity to imagine a radically different world, the imaginative capacity to believe that such a world was possible, the strength to sustain the image in the mind's eye and the heart's longing, and the courage and ability to make that imagined world real."

Yet Justice Marshall was not satisfied with what he had achieved, believing that the Constitution's promise of equality remained unfulfilled and that his work was therefore unfinished.

A VOICE OF ANGER AND DISAPPOINTMENT

For much of his Supreme Court career, as the Court's majority increasingly drew back from affirmative action and other remedies for discrimination that he believed were still necessary to combat the nation's legacy of racism, Justice Marshall used dissenting opinions to express his disappointment and anger.

In 1978, for example, in the Bakke case, in which the Court found it unconstitutional for a state-run medical school to reserve 16 of 100 places in the entering class for black and other minority students, Justice Marshall filed a separate 16-page opinion tracing the black experience in America.

"In light of the sorry history of discrimination and its devastating impact on the lives of Negroes," he wrote, "bringing the Negro into the mainstream of American life should be a state interest of the highest order. To fail to do so is to insure that America will forever remain a divided society."

He dissented in City of Richmond v. Croson, a 1989 ruling in which the Court declared unconstitutional a municipal ordinance setting aside 30 percent of public contracting dollars for companies owned by blacks or members of other minorities. The Court majority called the program a form of state-sponsored racism that was no less offensive to the Constitution than a policy officially favoring whites.

In his dissenting opinion, Justice Marshall said that in reaching that conclusion 'a majority of this Court signals that it regards racial discrimination as largely a phenomenon of the past, and that government bodies need no longer preoccupy themselves with rectifying racial injustice."

He added: "I, however, do not believe this nation is anywhere close to eradicating racial discrimination or its vestiges. In constitutionalizing its wishful thinking, the majority today does a grave disservice not only to those victims of past and present racial discrimination in this nation whom government has sought to assist, but also to this Court's long tradition of approaching issues of race with the utmost sensitivity."

"GREAT DISSENTER" AS POLITICAL PROPHET

Although he wrote a number of important majority opinions for the Court, his most powerful voice was in dissent, and not only in the area of racial discrimination. Like his friend and closest ally, Justice William J. Brennan Jr., who retired the year before he did, Justice Marshall believed that the death penalty was unconstitutional under all circumstances. He dissented from all decisions in which the Court upheld application of the death penalty, and he wrote more than 150 dissenting opinions in cases in which the Court had refused to hear death penalty appeals.

In an article published after his retirement, Kathleen M. Sullivan, a Harvard Law School professor, called Justice Marshall "the great dissenter."

"We may read his eloquent admonitions in dissent as prophecies for another (perhaps distant) era when the political pendulum swings again," Professor Sullivan wrote. "With his departure goes part of the conscience of the Court—a reminder of the human consequences of legal decisions."

While the phrase "first black Supreme Court Justice" was attached so often to his name that it appeared to be part of his official title, it was a partial definition at best, scarcely encompassing the unusual range of legal experience that Justice Marshall brought to the Court.

By the time President Lyndon B. Johnson named him to succeed Justice Tom C. Clark, who had retired, Mr. Marshall had argued 32 cases before the Supreme Court and won 29 of them. He argued 14 of those cases as a private lawyer and 18 as Solicitor General of the United States, the Federal Government's chief advocate in the Supreme Court. President Johnson had named him to that position in 1965, two years before nominating him to the Supreme Court.

From 1961 to 1965, Thurgood Marshall was a Federal appeals court judge, named by President John F. Kennedy to the United States Court of Appeals for the Second Circuit, in Manhattan. He wrote 112 opinions on that court, none of which was overturned on appeal. Several of his dissenting opinions were eventually adopted as majority opinions by the Supreme Court.

He had at first been hesitant to accept President Kennedy's offer of a seat on the appeals court, fearing that his allies in the civil rights movement would think that he was deserting the struggle. "I had to fight it out with myself," he said in an interview some years ago. "But by then I had built up a staff—a damned good staff—an excellent board, and the backing that would let them go ahead. And when one has an opportunity to serve the Government, he should think twice before passing it up."

The Thurgood Marshall whom the public saw in his old age was a gruff, lumbering figure, his pace slowed by extra pounds and shortness of breath, his eyesight impaired by glaucoma. Outspoken and impolitic, he stirred up minor storms by making cutting remarks in public, highly unusual for a Supreme Court Justice, and major public figures.

"I wouldn't do the job of dog catcher for Ronald Reagan," he said in an interview in 1989. The next year, referring to President Bush, he said in a televised interview: "It's said that if you can't say something good about a dead person, don't say it. Well, I consider him dead."

BEHIND THE MASK, A FINE STORYTELLER

In the courtroom Justice Marshall's face was an inscrutable mask. He said little during the argument sessions, growling occasionally at lawyers who were struggling lamely through their arguments and sometimes training his sarcasm on his own colleagues. During a death penalty argument in 1981, William H. Rehnquist, then an Associate Justice, suggested that the inmate's repeated appeals had cost the taxpayers too much money. Justice Marshall interrupted, saying, "It would have been cheaper to shoot him right after he was arrested, wouldn't it?"

But those who knew him well said that behind the mask was a man with an earthy sense of humor, a spellbinding storyteller with an anecdote from his own long life for every occasion.

Justice Brennan, in a tribute to his friend published in the Harvard Law Review, wrote about Justice Marshall's storytelling abilities. "The locales are varied—from dusty courtrooms in the Deep South, to a confrontation with General MacArthur in the Far East, to the drafting sessions for the Kenyan Constitution," Justice Brennan wrote. "They are brought to life by all the tricks of the storyteller's art: the fluid voice, the mobile eyebrows, the sidelong glance, the pregnant pause and the wry smile."

The stories were meant not only to entertain but also to serve "a deeper purpose," Justice Brennan said.

"They are his way of preserving the past while purging it of its bleakest moments," he said. "They are also a form of education for the rest of us. Surely, Justice Marshall recognized that the stories made us—his col-

leagues—confront walks of life we had never known.

Many of his stories recalled the hostility, the harassment and, not infrequently, the danger he had faced as a civil rights lawyer, traveling some 50,000 miles a year throughout the South representing black clients and unpopular causes. One story he told was of being arrested on a trumped-up charge of drunken driving while leaving a Tennessee town in which he and a colleague had just won an acquittal for a black defendant.

As Justice Marshall recounted the incident in an interview, he was brought before a magistrate, who told him: "If you're not drunk, will you take my test? Will you blow in my face? I'm a teetotaler and I can smell the least bit of whisky."

"He was a short man," recalled Justice Marshall, who was himself 6 feet 2 inches tall and weighed well over 200 pounds. "I put my hands on his shoulders and breathed just as hard as I could into the man's face." The case was dismissed.

"We drove to Nashville," the Justice added. "And then, boy, I really wanted a drink!"

Thurgood Marshall was born in Baltimore on July 2, 1908. His mother, the former Norma Williams, was a teacher. His father, William Marshall, had once worked as a Pullman car waiter and later became a steward at the exclusive, all-white Gibson Island Club on Chesapeake Bay. A great-grandfather had been taken as a slave from the Congo to the Eastern Shore of Maryland, where the slaveholder eventually freed him.

Mr. Marshall was named for his paternal grandfather, who had chosen the name "Thoroughgood" when he enlisted as a private in the Union Army during the Civil War. His grandson later explained that he adopted the spelling "Thurgood" in grade school because he "got tired of spelling all that out."

He described himself as a "hell-raiser" in school, a circumstance that gave him exposure to the Constitution and lifelong respect for it. "Instead of making us copy out stuff on the blackboard after school when we misbehaved, our teacher sent us down into the basement to learn parts of the Constitution," he once recalled. "I made my way through every paragraph."

In high school years in Baltimore, he worked as a delivery boy for a women's clothing store after classes. He waited on tables to help pay the tuition at Lincoln University in Chester, Pa., where he said he "majored in hell-raising." He was expelled once for hazing freshmen, but after being readmitted he became a star debater and graduated with honors in 1930.

His mother wanted him to become a dentist, a safe and lucrative career for a black professional in those days, but he was determined to become a lawyer. Enrolling at Howard University Law School meant a long daily commute from Baltimore because he could not afford housing at the school. His mother pawned her wedding and engagement rings to pay the law school's entrance fees.

At Howard he met a man who would influence the course of his life, Charles Hamilton Houston, then the law school's vice dean. Mr. Houston, a Harvard Law School graduate who later served as chief counsel to the National Association for the Advancement of Colored People and who became the first black lawyer to win a case before the Supreme Court, imbued his students with the goal of using the law to attack institutional racism.

"Charlie Houston insisted that we be social engineers rather than lawyers," Justice Marshall said in an interview published in the American Bar Association Journal in 1992.

The Justice often credited Mr. Houston, who died in 1950 at the age of 54, as his mentor. Referring to the 1954 Brown v. Board of Education decision, he said in the bar association interview: "The school case was really Charlie's victory. He just never got a chance to see it."

A BASIC STRATEGY TO END SEGREGATION

After earning his law degree Mr. Marshall opened a law office in Baltimore. The nation was in the fourth year of the Depression. He found himself handling civil rights cases for impoverished clients and was soon $1,000 in debt. But his courtroom victories, including his successful challenge to segregation at the University of Maryland Law School, began to be noticed. In 1936 Mr. Houston, by then the chief counsel of the N.A.A.C.P., recruited him for a $2,600-a-year job on the organization's legal staff in New York. Two years later, when Mr. Houston returned to Washington, Mr. Marshall succeeded to the chief counsel's title but continued to work closely with his mentor.

Pursuing a long-range strategy to eradicate segregation, the two men concentrated first on graduate and professional schools, believing that white judges were most likely to be offended by segregation in that setting and to sympathize with the ambitious young black college graduates who were the plaintiffs in the cases. As successes mounted, the two turned their attention to segregation in public high schools and elementary schools.

"Under Marshall, the N.A.A.C.P.'s legal staff became the model for public interest law firms," Mark Tushnet, one of the Justice's biographers who was also one of his law clerks, wrote in the American Bar Association Journal. "Marshall was thus one of the first public interest lawyers. His commitment to racial justice led him and his staff to develop ways of thinking about constitutional litigation that have been enormously influential far beyond the areas of segregation and discrimination."

In its public school cases, the initial focus of the N.A.A.C.P., and later of the NAACP Legal Defense and Education Fund, which became a separate entity in the 1940's, was to seek to equalize the resources available to the all-black schools in segregated systems. Mr. Marshall persuaded the organization's board to abandon that approach and to refuse to take on any cases that did not challenge the fact of segregation itself.

The new policy was controversial within the N.A.A.C.P. and prompted resignations by several black lawyers on whom the organization had relied to handle cases in the South. Mr. Marshall was not deterred, and took on many of the cases himself. He traveled constantly and was in charge of as many as 450 cases at a time. "I was on the verge of a nervous breakdown for a long time, but I never quite made the grade," he once said.

Robert L. Carter, an associate of Mr. Marshall's from those days who later became a Federal district judge in New York, recalled their travels through the South in an article published in The Harvard Law Review.

"Having grown up in Maryland, Marshall had a slight Southern accent." Mr. Carter wrote. "But when our opponents were Southern lawyers, which was virtually all the time, his accent would become much more pronounced. Before and after the case was called, Marshall would joke with the opposing counsel or exchange some pleasantry, all in a Southern accent so broad that he sounded as if he had lived all his life in the deep rural South. The practice irritated me at first. The very lawyers Marshall's Southern drawl would put at ease were defending a system we detested."

Mr. Carter wrote that he gradually understood that his friend "was attempting to communicate to these men that, although we were on opposite sides of an emotionally charged lawsuit, we were lawyers representing our clients and had no personal quarrel with each other."

"THE RIGHT MAN AND THE RIGHT PLACE"

By 1961, when President Kennedy named him to the Federal appeals court, Thurgood Marshall was the best known black lawyer in the United States. A group of Southern senators held up his confirmation for months, and he served initially under a special appointment made during a Congressional recess. Six years later, President Johnson said that placing Judge Marshall on the Supreme Court was "the right thing to do, the right time to do it, the right man and the right place."

Liberals still dominated the Court in the closing years of Chief Justice Earl Warren's tenure, and Justice Marshall fit in comfortably with such colleagues as Justices Brennan and William O. Douglas. In his early years on the Court, Justice Marshall cast only a handful of dissenting votes.

Inexorably, the ideological landscape changed. By the time Justice Marshall announced his retirement, on June 27, 1991, he had served longer than all but one of the sitting Justices—Byron R. White, who was named by President Kennedy in 1962—and was more liberal than any of them. In his final term he dissented in 25 of 112 cases.

Among Justice Marshall's important majority opinions for the Court was Amalgamated Food Employees Union v. Logan Valley Plaza, in 1968, which held that a shopping center was a "public forum" much like an old downtown city street, from which the private owners could not exclude picketers.

His majority opinion in Stanley v. Georgia, in 1969, held that the private possession of pornography could not be subject to prosecution "If the First Amendment means anything," he wrote in that case, "it means that a state has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch."

He wrote the majority opinion in Bounds v. Smith, a 1977 case holding that state prison systems are constitutionally obliged to provide inmates with "adequate law libraries or adequate assistance from persons trained in the law."

A VIGOROUS DISSENT IN A SCHOOLS CASE

One of his best known dissents was a 63-page opinion in a 1973 case, San Antonio School District v. Rodriguez. The majority in that case held, by a 5-to-4 vote, that the Constitution's guarantee of equal protection was not violated by the property tax system used by Texas and most other states to finance public education. Under the system districts with generous tax bases can afford to provide better schools than less wealthy districts.

In his dissenting opinion, Justice Marshall accused the majority of an "unsupportable acquiescence in a system which deprives children in their earliest years of the chance to reach their full potential as citizens."

He argued that the right to an education should be regarded as a "fundamental" constitutional right, and that state policies that have the effect of discriminating on the basis of wealth should be subject to especially searching judicial scrutiny.

"In my judgment," he wrote, "the right of every American to an equal start in life, so

far as the provision of a state service as important as education is concerned, is far too vital to permit state discrimination on grounds as tenuous as those presented by this record."

Justice Marshall had often said that he did not plan to retire, so his decision at the end of the 1990-91 term took both the court and the country by surprise.

One person familiar with the Court recalled that when Justice Marshall informed his colleagues of his plan, at the Justices' final private conference of the term, even the members of the Court who had clashed with him long and often on matters of law and policy were deeply moved. Exclaiming "Oh, Thurgood!" Chief Justice Rehnquist embraced Justice Marshall in a bear hug. Justice Sandra Day O'Connor wept.

Justice Marshall, a few days shy of his 83d birthday, gave health as the reason for his retirement. At a news conference the next day he was asked, "What's wrong with you, sir?"

"What's wrong with me?" Justice Marshall replied. "I'm old. I'm getting old and coming apart."

Justice Marshall's first wife, the former Vivien Burey, whom he married in 1929, died of cancer in February 1955. In December of that year he married Cecilia Suyat, known as Cissy. They had two sons, Thurgood Jr., legislative-affairs coordinator for the Office of the Vice President and previously a lawyer on the staff of the Senate Judiciary Committee, and John, a member of the Virginia state police.

[From the New York Times, Jan. 25, 1993]

MARSHALL IS REMEMBERED AS MORE THAN A JUSTICE

(By Jacques Steinberg)

Those who worked closely with Justice Thurgood Marshall—his law clerks, colleagues on the beach and fellow lawyers—remembered him yesterday as a larger-than-life presence who left a lasting imprint on the nation, as well as on their personal lives and careers.

"He wouldn't use the term," said Jack Greenberg, the dean of Columbia College, who in 1961 succeeded Mr. Marshall as director-counsel of the NAACP Legal Defense and Educational Fund, "but he had a joie de vivre, an exuberance, an aggressiveness about things he attacked, cases that he worked on, issues that he addressed."

In the hours after his death yesterday afternoon, many admirers and former colleagues said they would have difficulty isolating Justice Marshall's most significant contribution to American society, because those contributions seemed endless.

James O. Freedman, who from 1962 to 1963 worked as a clerk for Mr. Marshall when he was a Federal appeals court judge, agreed with many that his former boss's crowning achievement was his successful litigation in 1954 of Brown v. Board of Education, in which the Supreme Court declared that the doctrine of "separate but equal" in regard to racial segregation in public schools no longer had a place in America.

"He allied himself with an idea whose time had come," said Mr. Freedman, now the president of Dartmouth College. "He is probably the only person ever to have been appointed to the Supreme Court who would have had a place in American history before his appointment."

Sherman A. Parks Jr., a 42-year-old Topeka, Kan., lawyer, said yesterday that the Brown decision, and Justice Marshall's role in it, changed the course of his life.

"The Brown case gave me an opportunity I wouldn't have had otherwise," said Mr. Parks, who, after the Brown case was decided, was permitted to attend kindergarten at the elementary school involved in the case. "I mean, I'm a black male and now I'm an attorney and the president of the school board that spawned the Brown case."

The Rev. Jesse Jackson echoed Mr. Parks's reflections, saying, "For most of us who grew up under segregation, we have never known a day without Thurgood Marshall hovering over us to protect us."

Barbara Underwood, a senior executive district attorney in Queens, who clerked for Justice Marshall at the Supreme Court in the early 1970's, said she hoped history would capture the breadth of his career.

"As a lawyer, as a litigator at the N.A.A.C.P., as solicitor general and as a judge, he brought his life and his insights to bear on all manner of issues," she said. Like others, she spoke of his advocacy for minority citizens, for women and for social change as a whole.

"TRUE AMERICAN HERO"

Mr. Greenberg said Justice Marshall helped transform the nation "from a society of apartheid to one in which black people, still under constraints they suffer, nevertheless have an equal chance."

Justice Marshall's former colleagues on the Supreme Court spoke of him yesterday in reverential tones that seemed to transcend ideological boundaries.

"We've lost a true American hero," said Justice Sandra Day O'Connor. "I'm thinking of how privileged I feel to have known him and worked with him."

Justice Antonin Scalia said Justice Marshall was one of the few people in American public life who would be forever identified with the ideas that he championed.

The man who replaced Justice Marshall on the Court, Justice Clarence Thomas, said, "He was a great lawyer, a great jurist and a great man, and the country is better for his having lived."

Justice Marshall's passing drew an immediate reaction from the White House.

"He was a giant in the quest for human rights and equal opportunity in the whole history of our country," President Clinton said in a statement. "Every American should be grateful for the contributions he made as an advocate and as a justice."

Richard Kluger, whose 1975 book "Simple Justice," chronicled the Brown case, said Justice Marshall's role in American social history would be difficult to overstate.

"Without him, the whole civil rights movement and the legal enfranchisement of blacks might not have happened when it did," Mr. Kluger said. "It might have taken a number of years. That was the man's monument. He worked hard for it."

IN MARSHALL'S OWN WORDS

On segregation "the trouble with the doctrine of separate but equal [is that it] assumes that two things are equal."—Argument before the Supreme Court in Brown v. Board of Education (1954)

On free speech "the mere fact that speech is accompanied by conduct does not mean that the speech can be suppressed under the guise of prohibiting the conduct."—Amalgamated Food Employees v. Logan Valley Plaza (1968)

On privacy "If the First Amendment means anything it means that a state has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds."—Stanley v. Georgia (1960)

On desegregation "Today's holding, I fear, is more a perceived reflection of a public mood that we have gone far enough in insuring the Constituton's guarantee of equal justice than it is a product of neutral principles of law. . . . It may be the easier course to allow our great metropolitan areas to be divided up into two cities—one white, the other black—but it is a course, I predict, our people will ultimately regret."—Dissent in Milliken v. Bradley (1974)

On the right to counsel "The majority contends that the Sixth Amendment is not violated when a manifestly guilty defendant is convicted after a trial in which he was represented by a manifestly ineffective attorney. I cannot agree. Every defendant is entitled to a trial in which his interests are vigorously and conscientiously advocated by an able lawyer."—Dissent in Stickland v. Washington (1983)

On precedent "Power, not reason, is the new currency of this Court's decision making. . . . The implications of this radical new exception to the doctrine of stare decisis are staggering. The majority today sends a clear signal that scores of established constitutional liberties are now ripe for reconsideration, thereby inviting the very type of open defiance of our precedents that the majority rewards in this case."—Dissent in Payne v. Tennessee (1991).

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COBLE) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today and 60 minutes on January 26, 27, and 28, and 60 minutes on February 1, 2, 3, 4, 5, 16, 17, 18, and 19.

Mr. SOLOMON, for 5 minutes, today.

Mr. GRADISON, for 5 minutes, today.

(The following Members (at the request of Ms. ESHOO) to revise and extend their remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 60 minutes, on January 26, 27, 28, and 60 minutes on February 1, 2, 3, 4, 5, 16, 17, 18, 19, 22, 23, 24, 25, and 26.

Mr. CONYERS, for 15 minutes, today.

Mr. MFUME, for 60 minutes, on February 23, 24, and 25.

Mr. OWENS of New York, for 60 minutes, on January 25, 26, 27, and 28, and for 60 minutes on February 1, 2, 3, 4, 5, 16, 17, 18, 19, 22, 23, 24, 25, and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COBLE) and to include extraneous material:)

Mr. WELDON in five instances.

(The following Members (at the request of Ms. ESHOO) and to include extraneous material:)

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in two instances.

Mr. BILBRAY.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 30 minutes p.m.) the House adjourned until tomorrow, Tuesday, January 26, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

395. A letter from the director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1993, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103-41); to the Committee on Appropriations and ordered to be printed.

396. A communication from the President of the United States, transmitting a report on nuclear testing, pursuant to Public Law 102-377, section 507; to the Committee on Armed Services.

397. A letter from the Secretary, Housing and Urban Development, transmitting a study on three basic capitated payment formulas for public housing, pursuant to Public Law 101-625, section 525 (104 Stat. 4216); to the Committee on Banking, Finance and Urban Affairs.

398. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-316, "Estelle Simms, Bloomingdale, Edgewood, Eckington (BEE) Civic Park designation Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

399. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-317, "Anti-Stalking Temporary Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

400. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-321, "Uniform Commercial Code Investment Securities Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

401. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-322, "Health Services Planning Program Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

402. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-323, "District of Columbia Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

403. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-324, "Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

404. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-325, "District of Columbia Unemployment Compensation Act Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

405. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-326, "District of Columbia Retirement Board Judicial Appointment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

406. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-327, "Stable and Reliable Source of Revenues for WMATA Act of 1982 Temporary Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

407. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-328, "Carjacking Prevention Temporary Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

408. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-329, "District of Columbia Government Comprehensive Merit Personnel Act of 1978 Compensation Settlement Review Period Temporary Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

409. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-330, "District of Columbia Campaign Contribution Limitation Initiative of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

410. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-334, "TRAC Vehicle Leasing Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

411. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-335, "Bureau of Traffic Adjudication Hearing Examiner Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-336, "Funeral Services Regulatory Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-337, "Randall Memorial United Methodist Church Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-338, "National Learning Center Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-340, "Human Rights Act of 1977 Religious Observance Accommodation Amendment Act of 1992," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-341, "Adjustment of Interest Rates Paid on Rental Security Deposits Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-342, "Cable Television Communications Act of 1981 Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-343, "Health Care Provider Assessment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-344, "Minimum Wage Temporary Revision Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-345, "Investment Advisers Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-348, "Taxicab Commercial Advertising Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

422. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-350, "Surrogate Parenting Contracts Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

423. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-352, "District of Columbia Insurance Guaranty Association Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

424. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-354, "Smoking Regulation Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

425. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-355, "Premium Receipts Tax Clarification Amendment Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

426. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-356, "Malcolm X Avenue Designation Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

427. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-357, "New Southern Rock Baptist Church Equitable Real Property Tax Relief Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

428. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-358, "Washington International School Equitable Real Property Tax Relief Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

429. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-359, "Sixth Presbyterian

Church Equitable Real Property Tax Relief Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

430. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-360, "Ward memorial African Methodist Episcopal Church Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

431. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-361, "The Salvation Army Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

432. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-363, "Alternative fuels Technology Act of 1990 Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

433. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-364, "District of Columbia Uniform Conservation Easement Act of 1986 Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

434. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-365, "Health-Care Peer Review Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

435. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-366, "Public Assistance Shelter Days Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

436. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-368, "Animal Control Amendment Act of 1992" congressional review, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

437. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-369, "Tenant Assistance Program Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

438. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-370, "Capital Area Community Food Bank Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

439. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-373, "Motor Vehicle Specialty Tags Amendment Act of 1992," pursuant to D.C. Code, section 1-233c)(1); to the Committee on the District of Columbia.

440. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-374, "Prohibition of Employment Discrimination on the Basis of Tobacco Use Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

441. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-375, "Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

442. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-376, "Ridgecrest Court Designation Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

443. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-377, "District of Columbia Government Comprehensive Merit Personnel Act of 1978 Compensation Settlement Review Period Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

444. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act of 9-382, "Legalization of Self-Defense Sprays Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

445. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-388, "Barber and Cosmetology Revision Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

446. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-389, "American Association for the Advancement of Science Revenue Bond Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

447. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-351, "Mitch Snyder Place Designation Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

448. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-353, "District of Columbia Nonprofit Corporation Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

449. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-357, "New Southern Rock Baptist Church Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

450. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-362, "Wesley Theological Seminary Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

451. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 9-392, "Medicaid Managed Care Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

452. A letter from the Secretary of Energy, transmitting the report of the demonstration project on mandatory interim energy conservation performance standards for Federal residential buildings, pursuant to 42 U.S.C. 6831 et seq.; to the Committee on Energy and Commerce.

453. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending December 31, 1992, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

454. A communication from the President of the United States, transmitting a report on arms control treaty compliance by the successor states to the Soviet Union and other nations that are parties to arms control agreements with the United States, as well as by the United States itself, pursuant to 22 U.S.C. 2592a; to the Committee on Foreign Affairs.

455. A communication from the President of the United States, transmitting a report on the activities of U.S.-U.S.S.R. Standing Consultative Commission during calendar year 1992, pursuant to 22 U.S.C. 2578; to the Committee on Foreign Affairs.

456. A letter from the Secretary of State, transmitting the listing of a commercial military export that is eligible for approval in calendar year 1993, pursuant to 22 U.S.C. 2765(a); to the Committee on Foreign Affairs.

457. A communication from the President of the United States, transmitting a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102-1, section 3 (105 Stat. 4) (H. Doc. No. 103-39); to the Committee on Foreign Affairs and ordered to be printed.

458. A communication from the President of the United States, transmitting a copy of an Executive order with respect to additional measures with the Federal Republic of Yugoslavia (Serbia and Montenegro), pursuant to 50 U.S.C. 1701 et seq. and 1601 et seq. and 22 U.S.C. 287c (H. Doc. No. 103-40); to the Committee on Foreign Affairs and ordered to be printed.

459. A letter from the Director, Congressional Budget Office, transmitting a report on unauthorized appropriations and expiring provisions of law as of January 16, 1993, pursuant to 2 U.S.C. 602(f)(3); to the Committee on Government Operations.

460. A communication from the President of the United States, transmitting an agreement between the Government of the United States and the Government of the Republic of Lithuania Concerning Fisheries off the Coasts of the United States, pursuant to 16 U.S.C. 1823(a) (H. Doc. No. 103-38); to the Committee on Merchant Marine and Fisheries and ordered to be printed.

461. A letter from the Administrator, Small Business Administration, transmitting the final report on the work force field hearings; to the Committee on Small Business.

462. A communication from the President of the United States, transmitting the second biennial report of the National Critical Technologies Panel, pursuant to Public Law 101-189, section 841(a) (103 Stat. 1512); jointly, to the Committees on Armed Services and Science, Space, and Technology.

463. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting the Secretary's certification that the Russian Federation, Ukraine, the Republic of Belarus and the Republic of Kazakhstan are committed to the courses of action described in the National Defense Authorization Act for fiscal year 1993 and the Freedom Support Act, pursuant to Public Law 102-484, section 1412(d) and Public Law 102-511, section 502; jointly, to the Committees on Armed Services and Foreign Affairs.

464. A letter from the Secretary of Energy, transmitting notice that an extension of time is needed for the submittal of the implementation plan in connection with the Defense Nuclear Facilities Safety Board Recommendation 92-4; jointly, to the Committees on Energy and Commerce and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for print-

ing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 19. Resolution to establish the Select Committee on Aging; with an amendment (Rept. 103–1). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 30. Resolution to establish the Select Committee on Aging; with an amendment (Rept. 103–2). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 23. Resolution to establish the Select Committee on Children, Youth, and Families; (Rept. 103–3). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 18. Resolution to establish the Select Committee on Hunger (Rept. 103–4). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 20. Resolution to establish the Select Committee on Narcotics Abuse and Control; with an amendment (Rept. 103–5). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN (for himself, Mr. BROWN of California, Mr. GONZALEZ, Mr. JACOBS, Mr. LANTOS, Mr. MFUME, Mr. RAVENEL, and Mr. SHAYS):

H.R. 559. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mr. ACKERMAN:

H.R. 560. A bill to amend the Public Health Service Act to establish programs to increase the supply of professional nurses and provide educational assistance to nurses, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. CONDIT (for himself, Mr. BAKER of Louisiana, Mr. BARRETT of Nebraska, Mr. DOOLEY, Mr. DOOLITTLE, Mr. EMERSON, Mr. PETE GEREN of Texas, Mrs. LLOYD, Mr. OXLEY, Mr. MONTGOMERY, Mr. QUILLEN, Mr. SENSENBRENNER, Mr. THOMAS of Wyoming, Mr. ZELIFF, Mr. SKEEN, Mr. PICKETT, Mr. STENHOLM, Mr. BALLENGER, Mr. ENGLISH of Oklahoma, Mr. ANDREWS of New Jersey, Mr. JACOBS, Mr. SCHIFF, and Mr. SUNDQUIST):

H.R. 561. A bill to ensure the Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture; jointly, to the Committees on the Judiciary and Agriculture.

By Mr. DORNAN:

H.R. 562. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for medical expenses incurred for an abortion; to the Committee on Ways and Means.

H.R. 563. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for adoption expenses; to the Committee on Ways and Means.

By Mr. HUNTER:

H.R. 564. A bill to authorize leases for 99-year terms on the Viejas Indian Reservation; to the Committee on Natural Resources.

By Mr. KOLBE:

H.R. 565. A bill to amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. MONTGOMERY:

H.R. 566. A bill to amend title 10, United States Code, to provide that the crediting of years of service for purposes of computing the retired and retainer pay of enlisted members of the Armed Forces shall be made in the same manner as applies to officers; to the Committee on Armed Services.

By Mr. ROHRABACHER (for himself, Mr. HERGER, Mr. SOLOMON, Mr. EMERSON, Mr. PORTER, Mr. RAMSTAD, Mr. DOOLITTLE, Mr. SMITH of Oregon, Mr. MCCOLLUM, Mr. SCHIFF, Mr. KYL, Mr. BAKER of Louisiana, Mr. MOORHEAD, Mr. RAVENEL, Mr. BURTON of Indiana, Mr. GALLEGLY, Mr. GOSS, Mr. COX, Mr. GILLMOR, Mr. DORNAN, Mr. MCHUGH, Mr. BAKER of California, Mr. SMITH of New Jersey, Mr. SPENCE, Mr. TAYLOR of North Carolina, Mrs. BENTLEY, Mr. SENSENBRENNER, Mr. LEVY, Mr. LINDER, Mr. MYERS of Indiana, Mr. BLUTE, Mr. POMBO, Mr. GINGRICH, Mr. HANCOCK, Mr. SAM JOHNSON of Texas, Mr. ROYCE, and Mr. UPTON):

H.R. 567. A bill to amend the Internal Revenue Code of 1986 to increase the dollar limitation on the 1-time exclusion of gain from sale of a principal residence by individuals who have attained age 55, to increase the amount of the unified estate and gift tax credits, and to reduce the tax on capital gains; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself and Ms. SNOWE):

H.R. 568. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WASHINGTON:

H.R. 569. A bill to authorize the National Institute of Corrections to make grants to States to carry out family unity demonstration projects; and for other purposes; to the Committee on the Judiciary.

By Mr. WELDON:

H.R. 570. A bill to amend the Comprehensive Environmental Response, Compensation and Liability Act of 1980 to provide specific definition of the requirement that a purchaser of real property make all appropriate inquiry into the previous ownership and uses of the real property in order to qualify for the "innocent landowner" defense; to the Committee on Energy and Commerce.

By Mr. WELDON (for himself, Mr. WOLF, Mr. MCHUGH, Mr. GINGRICH, and Mr. HOCHBRUECKNER):

H.R. 571. A bill to improve the collection, analysis, and dissemination of information that will promote the recycling of municipal solid waste; to the Committee on Energy and Commerce.

By Mr. COLEMAN (for himself, Mr. EVANS, Mr. JOHNSON of South Dakota, Mr. CRAMER, Mr. BILIRAKIS, Mr. SLATTERY, Mr. KLECZKA, Ms. MALONEY, Mr. WALSH, Mr. PETE GEREN of Texas, Mr. MCHUGH, Ms. PELOSI, Mr. DE LA GARZA, Mr. HUNTER, Mr. GORDON, Mr. BACCHUS of Florida, Mrs. MORELLA, Mr. SWETT, Mr. GENE GREEN of Texas, Mr. MCDERMOTT, Ms. KAPTUR, Mr. SARPALIUS, Mr. WOLF, Ms. NORTON, Mr. MAZZOLI, Mr. CAMP, Mr. WILSON, Mr. DEFAZIO, Mr. PALLONE, Mr. ROYCE, Mr. CONYERS, Ms. FURSE, Mr. BLUTE, Mrs. KENNELLY, Mr. KOPETSKI, Mr. PETERSON of Florida, Mr. BRYANT, Mr. KILDEE, and Mr. FROST):

H.J. Res. 68. Joint resolution to designate the months of April 1993 and 1994 as "National Child Abuse Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H.J. Res. 69. Joint resolution to designate the period commencing February 7, 1993, and ending February 13, 1993, and the period commencing February 6, 1994, and ending February 12, 1994, as "National Burn Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut (for himself, Mr. GILCHREST, and Mr. WILSON):

H.J. Res. 70. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives, to limit the number of consecutive terms Representatives and Senators may serve, and to limit the total number of terms Representatives and Senators may serve; to the Committee on the Judiciary.

By Mr. MACHTLEY:

H. Con. Res. 21. Concurrent resolution expressing the sense of the Congress that any health care reform legislation that is enacted to meet the health care needs of the people of the United States should emphasize disease prevention and encourage the development of healthy lifestyles; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER (for herself and Ms. SNOWE):

H. Con. Res. 22. Concurrent resolution expressing the sense of the Congress with respect to contraception and infertility; to the Committee on Energy and Commerce.

By Mr. HOYER:

H. Res. 39. Resolution electing Representative Sabo of Minnesota to the Committee on the Budget; considered and agreed to.

By Mr. PENNY:

H. Res. 40. Resolution concerning United States assistance to Nicaragua; to the Committee on Foreign Affairs.

By Mr. WELDON (for himself, Mr. LEACH, and Mr. SHAYS):

H. Res. 41. Resolution requiring that travel awards that accrue by reason of official travel of a Member, officer, or employee of the House of Representatives be used with respect to official travel; to the Committee on House Administration.

By Mr. WELDON (for himself and Mr. ANDREWS of New Jersey):

H. Res. 42. Resolution establishing a Select Committee on Disaster Preparedness and Response; to the Committee on Rules.

H. Res. 43. Resolution to amend the Rules of the House of Representatives to establish a Citizens' Commission on Congressional Ethics, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

30. By the SPEAKER: Memorial of the Legislature of the State of Alaska, relative to travel and tourism; to the Committee on Energy and Commerce.

31. Also, memorial of the Legislature of the State of Alaska, relative to U.S. military facilities; to the Committee on Foreign Affairs.

32. Also, memorial of the Legislature of the State of Alaska, relative to travel advisories; to the Committee on Foreign Affairs.

33. Also, memorial of the Legislature of the State of Alaska, relative to military spending and budget deficit reduction; to the Committee on Government Operations.

34. Also, memorial of the Legislature of the State of Alaska, relative to recreational vessels; to the Committee on Merchant Marine and Fisheries.

35. Also, memorial of the Legislature of the State of Alaska, relative to bowhead whale; to the Committee on Merchant Marine and Fisheries.

36. Also, memorial of the Legislature of the State of Alaska, relative to establishing a national mandatory seafood inspection program; jointly, to the Committee on Merchant Marine and Fisheries and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISH:

H.R. 572. A bill for the relief of Melissa Johnson; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 573. A bill for the relief of Sanae Takahashi; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 85: Mr. QUINN, Mr. FAWELL, and Mr. PETRI.

H.R. 86: Mr. QUINN, Mr. FAWELL, Mr. TAYLOR of North Carolina, and Mr. PETRI.

H.R. 87: Mr. QUINN, Mr. FAWELL, Mr. TAYLOR of North Carolina, and Mr. PETRI.

H.R. 116: Mr. FAWELL and Mr. CRANE.

H.R. 118: Mr. MCCLOSKEY, Mr. SKEEN, Mr. LAUGHLIN, Mr. GONZALEZ, Mr. FROST, and Mr. KOPETSKI.

H.R. 123: Mr. OXLEY, Mr. LIPINSKI, Mr. HENRY, Mr. PACKARD, Mr. MYERS of Indiana, Mr. FAWELL, Mr. MCCRERY, Mr. MCCANDLESS, Mr. SOLOMON, Mr. SUNDQUIST, Mr. GALLO, Mr. BARRETT of Nebraska, Mr. DORNAN, Mr. BROWDER, Mr. SHUSTER, Mr. SAXTON, Mr. LIVINGSTON, Mr. BAKER of California, and Mr. MOORHEAD.

H.R. 124: Mr. OXLEY, Mr. SOLOMON, Mr. SUNDQUIST, Mr. SAXTON, Mr. LIVINGSTON, and Mr. BAKER of California.

H.R. 179: Mrs. LLOYD and Mr. WHEAT.

H.R. 300: Mr. PETERSON of Minnesota, Mr. HUTCHINSON, Mr. GOODLATTE, Mr. SPENCE, Mr. KING, Mr. FAWELL, Mr. MURPHY, Mr. COX, Mr. GINGRICH, Mr. FIELDS of Texas, Mr. WYNN, Mr. BILBRAY, Mr. ROWLAND, Mr. SKEEN, Mr. INGLIS, Ms. MOLINARI, Mr. BALLENGER, Mr. CUNNINGHAM, Mr. BLACKWELL, Mr. LINDER, Mr. GUNDERSON, Mr. BLUTE, Mr. MANZULLO, and Mr. POSHARD.

H.R. 349: Mr. TORKILDSEN, Mr. SAM JOHNSON of Texas, Mr. MANN, Mrs. LLOYD, Mr. BALLENGER, and Mr. ROYCE.

H.R. 557: Mr. SAXTON and Mr. SMITH of New Jersey.

H.J. Res. 9: Mr. KLUG, Mr. BARRETT of Nebraska, Mr. INGLIS, Mr. SUNDQUIST, Mr. BAKER of Louisiana, Mr. BARTLETT, Mr. BEREUTER, Mr. BUYER, and Mr. BALLENGER.

H.J. Res. 27: Mr. RAMSTAD, Mr. SOLOMON, Mr. SUNDQUIST, Mr. GINGRICH, Mr. BAKER of Louisiana, and Mr. HYDE.

H. Con. Res. 3: Mr. BARTLETT and Mr. TAYLOR of North Carolina.

H. Con. Res. 13: Mr. OXLEY, Mr. HENRY, Mr. PACKARD, Mr. FAWELL, Mr. PORTER, Mr. SOLOMON, Mr. SUNDQUIST, Mr. BARRETT of Nebraska, Mr. DORNAN, Mr. SAXTON, and Mr. LIVINGSTON.

H. Res. 16: Mr. SAM JOHNSON of Texas.

H. Res. 18: Mr. FILNER.

H. Res. 20: Mr. RUSH, Mr. FRANKS of Connecticut, Mrs. CLAYTON, Mr. UNDERWOOD, Mr. BAESLER, and Mr. WYNN.

H. Res. 23: Mr. MILLER of California, Mr. WHEAT, Mrs. LLOYD, Mr. ACKERMAN, Ms. MALONEY, Mr. REED, Mr. DELLUMS, Mr. ANDREWS of New Jersey, Mr. FORD of Tennessee, Mr. LANTOS, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. ORTIZ, Mr. OWENS, Ms. LONG, Mr. MATSUI, Mr. PARKER, Ms. VELAZQUEZ, Mr. MCDERMOTT, Mr. STOKES, Mr. GEJDENSON, Mr. SERRANO, Mrs. VUCANOVICH, Mr. WYDEN, Mr. YATES, Mr. KLECZKA, Mr. HOLDEN, Mr. FOGLIETTA, Ms. WOOLSEY, Ms. SCHENK, Mr. TUCKER, Mr. FILNER, Ms. MARGOLIES-MEZVINSKY, Ms. BROWN of Florida, Mr. HINCHEY, Ms. FURSE, Ms. ROYBAL-ALLARD, Mr. WYNN, Mr. FRANK of Massachusetts, Mr. PAYNE of New Jersey, Mr. STUPAK, Mr. WATT, Mr. RICHARDSON, Mr. MAZZOLI, Ms. PELOSI, Mr. MEEHAN, Mr. MCHALE, Mr. BEVILL, Mr. BORSKI, Mr. SCOTT, Mr. APPLEGATE, Mrs. COLLINS of Illinois, Mr. DE LUGO, Ms. KAPTUR, Mr. GENE GREEN of Texas, Mr. HALL of Ohio, Mr. TOWNS, Mr. RAHALL, Mr. DEFAZIO, Mr. POSHARD, Mr. BOUCHER, Mr. VALENTINE, Mr. BAESLER, Mr. BECERRA, Mr. CONYERS, Mr. TRAFICANT, Mr. SKELTON, Mr. COLEMAN of Texas, Mr. ROSE, Mr. ROMERO-BARCELO, Mr. GILMAN, Mr. VENTO, Mr. MARKEY, Mr. MORAN, Mr. SLATTERY, and Mr. FIELDS of Louisiana.

H. Res. 31: Mr. GOSS, Mr. PORTER, Mr. HANCOCK, and Mr. SENSENBRENNER.

H. Res. 32: Ms. SNOWE, Mr. MICA, Mr. SENSENBRENNER, and Mr. TUCKER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. RES. 18

By Mr. SOLOMON of New York:

—At the end of the resolution, add the following new section:

"TERMINATION OF SELECT COMMITTEE"

"SEC. 7. (a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 19

By Mr. SOLOMON of New York:

—At the end of the resolution, add the following new section:

"Sec. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 20

By Mr. SOLOMON of New York:

—At the end of the resolution, add the following new section:

"Sec. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 23

By Mr. SOLOMON of New York:

—At the end of the resolution, add the following new section:

"Sec. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".

H. RES. 30

By Mr. SOLOMON of New York:

—At the end of the resolution, add the following new section:

"Sec. 7. Termination of Select Committee.

"(a) Notwithstanding any other provision of this resolution, the select committee shall cease to exist on December 31, 1993.

"(b) The records, files and materials of the select committee shall be transferred to the Clerk of the House.".